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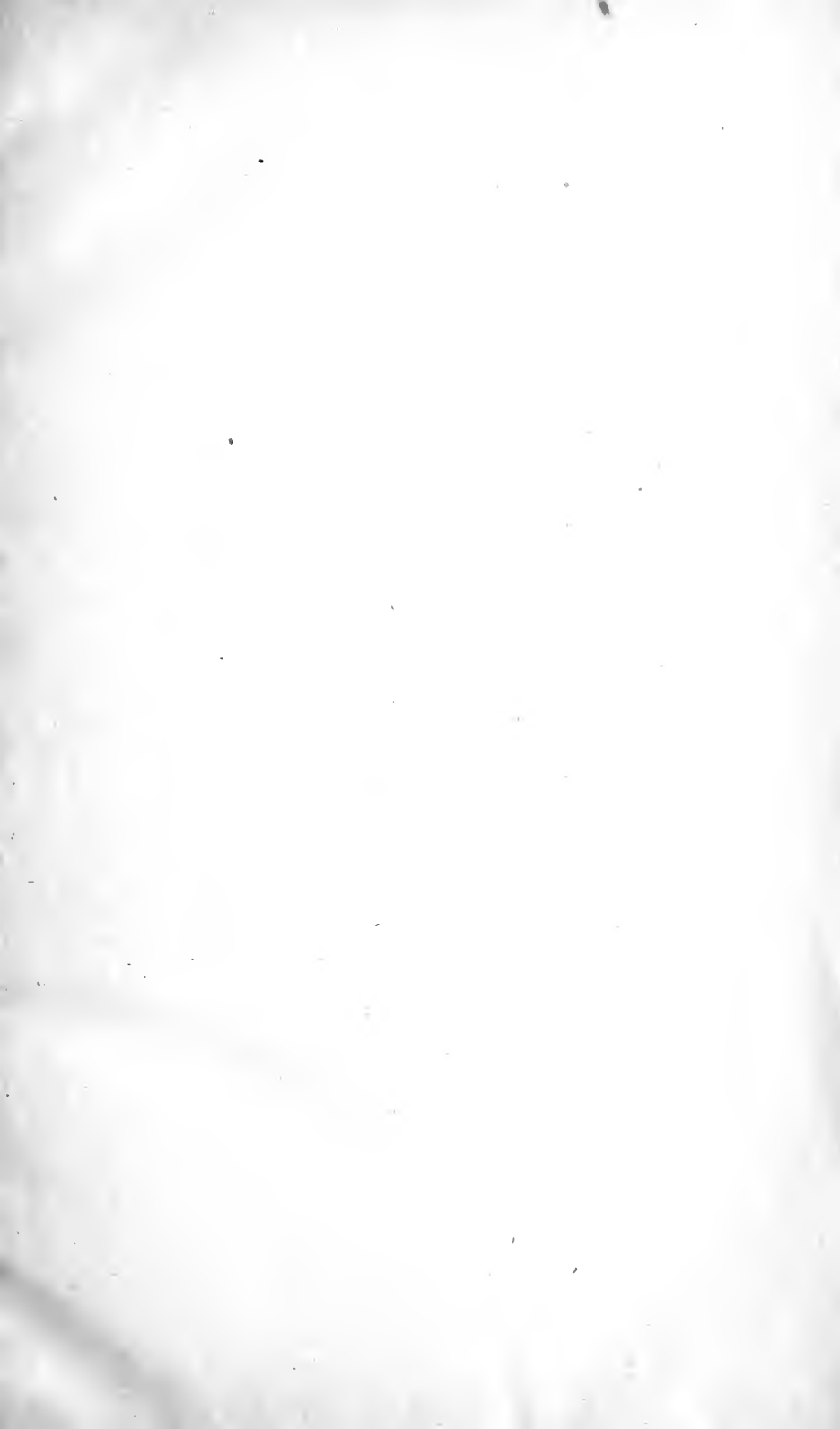
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CONTESTED ELECTION CASE

OF

JOHN J. CARNEY

V.

DICK T. MORGAN

FROM THE

**Second Congressional District
of Oklahoma**



WASHINGTON

1913

CONTESTED ELECTION CASE

OF

JOHN J. CARNEY

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WASHINGTON

1913

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CONTESTED ELECTION CASE

OF

JOHN J. CARNEY V. DICK T. MORGAN

FROM THE

SECOND CONGRESSIONAL DISTRICT OF OKLAHOMA.

NOTICE OF CONTEST.

Your contestant, John J. Carney, for grounds of contest against the contestee, Dick T. Morgan, alleges and states:

First. That at the regular election held in the second congressional district of the State of Oklahoma on the 5th day of November, A. D. 1912, the said John J. Carney was the duly and regularly chosen and qualified nominee of the Democratic Party for the office of Congressman from the second congressional district of the State of Oklahoma, and that his name appeared upon the official ballot in said election as the candidate of said party for said office; that the said Dick T. Morgan was the regular nominee of the Republican Party for said office, and that his name appeared upon the official ballot in said election as the candidate of said Republican Party for such office, and that there was an election held for said office in the State of Oklahoma upon the 5th day of November, A. D. 1912.

Second. That upon the 22d day of November, A. D. 1912, the State election board of the said State of Oklahoma canvassed the official returns of the various counties in said congressional district and pretended to tabulate the votes returned for contestant and contestee and, upon completion thereof, wrongfully found and determined that the contestant, John J. Carney, had received only 23,671 votes for said office, and that the contestee, Dick T. Morgan, had received 24,334 votes for said office, and thereupon wrongfully announced that the said Dick T. Morgan was therefore duly and legally elected to said office, and thereupon, wrongfully, upon the said 22d day of November, A. D. 1912, issued and delivered to the said Dick T. Morgan, contestee, a certificate of such election.

Third. That the official returns of the votes cast at said election for the said John J. Carney and said Dick T. Morgan, nominees as aforesaid, as made by the various precinct election boards in the counties of the said second congressional district to the said State election board, and as aforesaid returns canvassed by the said State election board were and are false, untrue, and incorrect, and did not and do not show the true and correct number of legal votes cast for the said two nominees, John J. Carney and Dick T. Morgan, at said election for said office; that in truth and in fact the said John J. Carney, at said election, received 25,171 votes and the said Dick T. Morgan only 22,594 votes; that 25,171 votes, so received by contestant as aforesaid, were and are a plurality of all votes cast for all the candidates for said office at said election, and this contestant, John J. Carney, therefore alleges that he was duly and legally elected and entitled to a certificate of election to the office of Congressman from the second congressional district of the State of Oklahoma, and that the said contestee was not elected to said office, and that therefore your contestant is duly entitled to represent the second congressional district of the State of Oklahoma in Congress for the period prescribed therefor by law.

Fourth. That at the time of said election, and for some time previous thereto, there had been in full force and effect in the State of Oklahoma a certain law, commonly known as the "grandfather clause," and which has been construed and upheld by the supreme court of the State of Oklahoma previous to said election, which said law provided, in substance and effect, that no person should register as an elector or be allowed to vote in any election held in the State of Oklahoma unless he were able to read and write any section of the constitution of the State of Oklahoma, but likewise provided that no person who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation and no lineal descendant of such person should be denied the right to register and vote because of his inability to so read and write sections of said constitution; and said law further made it the duty of the precinct election inspectors having in charge the registration of such electors to enforce the provisions of this section at the time of registration provided registration be required, and that where registration was dispensed with that the provisions of said law should be enforced by the precinct election officers when electors should apply for their ballots to vote. A true and correct copy of said law is hereto attached, marked "Exhibit A," and expressly made a part hereof.

Fifth. That in the cities of said congressional district registration was required by law, and that the registration officers in the cities of said congressional district wrongfully permitted to register at said election 1,021 negroes, who voted for the contestee at said general election upon the 5th day of November, A. D. 1912; all of which facts, as set forth in this paragraph of this notice of contest, were at said time, and are now known to the said contestee, Dick T. Morgan, the said number of illegal voters, registered as in this paragraph contained, not having qualified under the said law of the said State of Oklahoma, and that by so voting, as aforesaid, the said votes changed the result of said election wrongfully in favor of the said contestee.

Sixth. That at the time of said election, and for some time prior thereto, and at all the times mentioned in this paragraph of this notice of contest, one Homer T. Boardman was the duly appointed, qualified, and acting United States district attorney for the western district of the State of Oklahoma, and which comprised, then and there, the territory of the second congressional district of the State of Oklahoma; that prior to said election, and with the consent, knowledge, and connivance of the said Dick T. Morgan, contestee, there was sent to every precinct election official in the second congressional district of the State of Oklahoma an opinion by the said Homer T. Boardman upon the said so-called grandfather clause set forth in the above paragraph, as to its ineffectuality, and accompanying said opinion was a warning circular to the said precinct election officials, warning them that they might go to the penitentiary, and to talk it over with their wives, and calling their attention to the fact that two men had been convicted already for violating the said law, for the express purpose of intimidating the precinct election officials who conducted the said election for Congressman in the second congressional district, and to prevent them from conducting said election according to law. A true and correct copy of the said opinion of the said United States district attorney and a true copy of the said warning circular are hereto attached, marked "Exhibit B" and "Exhibit C," respectively, and expressly made a part hereof. That the said opinion and warning circular were duly received by each and every precinct election official in the second congressional district of the State of Oklahoma who presided in that capacity at the said general election, preventing the holding of a fair and legal election and causing the said officials to let vast numbers of illegal negro voters to vote at said election to such an extent in the several precincts of the said congressional district where negroes vote, as to absolutely render void the election held in the said negro precincts; that with the said illegal negro votes cast in the said negro precincts, the names of the said precincts and the numbers of votes cast therein being well known to this contestee, it is impossible to determine what would have been the result in said precincts.

Contestant further alleges that said threatening circular letter and opinion of the said United States district attorney intimidated the said precinct election officials of the said congressional district to that extent that they permitted vast number of disqualified voters to vote, rather than take the chance of Federal prosecution, as threatened, and that by so doing they permitted enough disqualified and illegal voters to vote to give the said contestee a plurality upon the face of the returns, when in truth and in fact the contestant, the nearest

competitor to said contestee in said congressional race, according to the wrongfully announced vote, was entitled to the said certificate of election, he having received of the legal votes cast a plurality over the said contestee, Dick T. Morgan, of 2,577 votes; that the said contestee well knew that said threatening circular letter and opinion had been sent to every precinct election official in the second congressional district, and had been received by said election officials in due course of mail prior to said election, and connived at, encouraged, and otherwise aided and abetted the said Homer T. Boardman, and other Federal officials in the State of Oklahoma, in intimidating the said precinct election officials and in causing them to fail to perform their official duties as required by law, on account of which failure to perform their said duties as precinct election officials, fraud was perpetrated upon this contestant, and he was deprived of the certificate of election, and that if the said election be purged of said fraud your contestant would, as aforesaid, have a plurality over the contestee of the aforesaid number of 2,577 votes.

Seventh. That Oklahoma County, Okla., is in the said congressional district; that in the several precincts where said fraud and intimidation and threats were used to the advantage of the said contestee, as set forth in the above paragraph, there were 1,208 votes cast for the said contestee and 508 for the said contestant, the following precincts being so affected in said county by said fraud and intimidation, and it being impossible to determine what the result would have been in each of said precincts without said illegal vote: Luther Township, Deep Fork Township, Lincoln Township, town of Luther, Choctaw Township, Crutcho Township, Dewey Township, Springer Township, ward 2, precinct 6, of Oklahoma City, and ward 2, precinct 9, of Oklahoma City; that in each of said townships and precincts the precinct inspectors made an amended return to the original return, setting forth that no legal election was held in any of said townships or precincts, that the officials were intimidated and threats of criminal prosecution made, and asking that the vote of said townships and precincts be not counted; that it would be too cumbersome to set up each amended return in said Oklahoma County, township, and precincts, but that a true and correct copy of the returns, so made by the precinct election officials in each of said townships and precincts of said Oklahoma County is hereto attached, marked "Exhibit D," and expressly made a part hereof, and that upon the hearing of this contest proof will be introduced showing that in each of said precincts said amended returns were so made, and that the county election board of Oklahoma County, Okla., wrongfully refused to correct the returns in conformity with said amended returns and to reject the vote in such townships and precincts, each of said precincts and townships constituting in itself an election precinct at said election.

That in said Oklahoma County fully 700 negroes, who were illegal voters, were permitted to vote without the test prescribed in the said so-called grandfather clause, and that said number of votes did change the result on the face of the returns for the said contestee and against the said contestant; upon all of which matters, as set forth in this paragraph, contestant desires to offer due proof upon the hearing of this contest.

Eighth. That in Blaine County, which was then and there in the said congressional district, and where the precinct election officials were intimidated into permitting large numbers of illegal negro voters to vote, on account of the matters and things and in the manner heretofore set forth in paragraph 6 of this notice of contest, and without applying the test provided for in said so-called grandfather clause, and in the townships of East Watanga, East Lincoln, West Dixon, River, Watanga, Flynn, Logan, Arapaho, Cedar Valley, Wells, and in the third ward of Geary, all of which are in the said Blaine County, there was 247 illegal votes cast in favor of the contestee as against the contestant, and that upon the hearing of this contest contestant desires to, and will, introduce proof of the same.

Ninth. That in Canadian County, at said election, and in the precincts A and B, and of the second ward of El Reno, there were cast, in the manner and form heretofore set out in this petition, 162 illegal votes in favor of the contestee as against the contestant, and on account of the matters and things as heretofore set forth in the sixth paragraph of this notice of contest, the precinct election officials, in fraud of the rights of this contestant, and in fear of criminal prosecution, and on account of the threats aforesaid, so permitted said illegal votes to be cast, and that without said illegal votes of the said persons in said Canadian County in said precincts it would be impossible to determine what the real result would have been, and that upon the hearing of this con-

test your contestant will introduce proof in support of the charge set forth in this paragraph.

Tenth. That in Caddo County, which was then and there in said congressional district and in the first ward of the city of Anadarko, and in the second ward of the city of Anadarko, and in ——— and ——— townships in said Caddo County, there were 162 votes cast in favor of the contestee as against the contestant on account of the matters and things heretofore set forth herein in reference to the fraud and intimidation used as against the precinct election officials of said county, and that it would be impossible to determine what the result would have been in the said precincts and townships of said Caddo County without the illegal vote cast therein, and that upon the hearing of this contest your contestant will introduce proof in support of the matters and things set forth in this paragraph.

Eleventh. That in Custer County, and in the ——— ward of the city of Clinton, and in Weatherford, ward 1 and wards 2 and 3, and Cedar and Grant precincts townships, there were 144 illegal votes cast and recorded in favor of the said contestee as against this contestant, on account of the matters and things set forth in paragraph sixth of this notice of contest, and on account of the fraud, threats, and intimidation, as aforesaid, so as to prevent the said election officials of the said Custer County from conducting in said precincts a fair and honest election and from requiring the test provided by the said grandfather clause, and that it would be impossible to determine what the result would have been in said precincts and townships in said Custer County without the said illegal votes so cast, and that upon the hearing of this contest the said contestant will offer proof in support of the matters and things set forth in this paragraph.

Twelfth. That in Alfalfa County, Okla., and in ——— and ——— townships, there were 81 illegal votes cast and recorded in favor of the contestee as against the contestant, on account of the matters and things heretofore set forth in reference to the fraud and intimidation used to prevent the said precinct election officials from discharging their duties as election officials, and that in said townships it would be impossible to determine what the result would have been without said illegal votes, and that upon the hearing of this contest your contestant will offer proof in support of the matters and things set forth in this paragraph.

Thirteenth. That in reference to the illegal votes cast in Oklahoma County, Blaine County, Canadian County, Caddo County, Custer County, and Alfalfa County, all of which are in the said congressional district, and were so in the said congressional district at the said general election of November 5, A. D. 1912, the precinct election officials were intimidated by the said Boardman letter and the said threatening circular, and that each and every one of said precinct election officials received the same in due course of mail prior to said election, and in fear of criminal prosecution permitted large numbers of illegal votes to be cast, without which, as aforesaid, your contestant, upon the face of the returns themselves, would have had a clear plurality over the said contestee; and your contestant asks that the votes so illegally cast in the said precincts be rejected, because the election in said precincts and townships in said counties were not conducted according to law, as aforesaid, and because of said fraud, threats, and intimidation were connived at and encouraged by the said contestee and were for his benefit, although your contestant did protest at said election and prior thereto, and still protests against the same.

Fourteenth. That in seven precincts of Texas County, which was then and there in said congressional district, and is now in said congressional district, in the general election held for the said office on the 5th day of November, A. D. 1912, no returns were made to the county election board by the precinct election officials of said seven precincts, although elections were held in said seven precincts, and that the names of said precincts were and are well known to this contestee; that the precinct election officials held elections in said seven precincts upon the 5th day of November, A. D. 1912; that the ballot boxes were securely locked and the ballots deposited therein; that since said election the said ballots have not been tampered with; that they have been under lock and key and securely protected since said election, and that upon the hearing of this contest and the taking of proof in support of the same your contestant requests that said ballot boxes containing the ballots cast for said seven precincts in said Texas County be duly presented for opening, and that the ballots in said seven precincts be then and there counted as between your contestant and the contestee, and that the result thereof be ascertained according to law, your

contestant alleging that the vote in said precincts will show that your contestant received 318 votes in said seven precincts and your contestee 162 votes, and that your contestant have an order requiring the county election board of Texas County securely to keep said ballot boxes of the said seven precincts, to the end that the ballots cast in the said seven precincts may be counted as affecting the result as between your contestant and contestee, and so that proof may be introduced, when evidence is taken in support of this contest, as to the vote in said seven precincts in said Texas County.

Fifteenth. Your contestant further alleges and states that in Logan Township, Beaver County, Okla., which was then and there and is now in the second congressional district of the State of Oklahoma, no election was held according to law, and that upon the fact of the returns your contestee is accredited with 81 votes in said Logan Township and your contestant with 44; that every plain and mandatory provision of the election laws of the State of Oklahoma were violated in said precinct; that during the day as high as 12 at a time were in the precinct voting booth, showing each other their ballots and telling each other how to vote; that as high as 20 were in the polling place at once, in violation of the mandatory provisions of the election laws of the State of Oklahoma, and that the vote in said precinct (the same being Precinct No. 1, Logan Township, Beaver County) should be rejected, and that your contestant will offer proof in support of the allegations of this paragraph upon the hearing of this contest.

Sixteenth. That in each of the precincts of Texas County, Okla., the election was not held according to law, and that there were in said county cast, illegally, for the contestee 398 votes, and that your contestant, upon the hearing of this contest, will offer proof as to the conduct of the election in the said Texas County, and asks that an order be issued to the county election board of the said Texas County to securely keep all the ballot boxes of said county until the same may be duly opened by lawful order upon the taking of testimony in this contest; that the pretended official returns from said Texas County only gave your contestant a plurality of 49 votes over the contestee, when in truth and in fact in said Texas County your contestant had a plurality over the said contestee of 447 votes.

Seventeenth. That in each and every county of said congressional district, fraud, intimidation, and illegal voting was practiced in behalf of the said contestee and as against the said contestant, in support of which your contestant will offer proof at the hearing of this contest, and that said fraud, illegal voting, and intimidation were enough to change the result in favor of this contestant as against the contestee.

Eighteenth. That upon the 7th day of November, A. D. 1912, your contestant duly filed his protest and objection to the issuance of a certificate of election as Member of Congress from the second congressional district of the State of Oklahoma to your contestee, Dick T. Morgan, but that, in fraud of the rights of this contestant, the said State election board as aforesaid issued a certificate of election to the said contestee as aforesaid.

Nineteenth. That in said election in said congressional district 1,740 negroes voted; that none of said negroes had ever been legally enfranchised; that none of them were qualified voters of the State of Oklahoma or of the United States; that the negro race had never been enfranchised according to law, and that the so-called fourteenth and fifteenth amendments to the Constitution of the United States of America have never been legally adopted, and are not now and were not then and were not at the general election of November 5, 1912, in full force and effect, and that said negroes voted for this contestee, and that without said illegal negro vote this contestant would have been elected upon even the face of the returns.

Wherefore your contestant, John J. Carney, gives contestee this notice that he intends to contest the said election, and asks that he be declared the duly elected Member of Congress from the second congressional district of the State of Oklahoma; that he be awarded his seat as a Member of Congress from the said congressional district according to law; that on account of the fraud, intimidation, and threats, as aforesaid, the election in the said congressional district, in so far as it affects this contest, be thoroughly probed and investigated and the result determined as the evidence and law will warrant, and for such other relief as your contestant, John J. Carney, may be entitled to in the premises.

JOHN J. CARNEY, *Contestant*,
By GEO. H. GIDDINGS & E. J. GIDDINGS,
Attorneys for Contestant.

STATE OF OKLAHOMA,

Oklahoma County, ss:

John J. Carney, of lawful age, being first duly sworn, deposes and says that he is the contestant above named; that he has read the above and foregoing notice of grounds of contest; and that the statements therein contained are true, as he verily believes.

JOHN J. CARNEY.

Subscribed in my presence and sworn to before me this the 12th day of December, A. D. 1912.

[SEAL.]

MARY S. HILL,

Notary Public, Oklahoma County, Okla.

My commission expires November 21, 1915.

ACCEPTANCE OF SERVICE.

I, Dick T. Morgan, contestee named in the foregoing notice of grounds of contest, hereby acknowledge service of a true and correct duplicate of the within notice of grounds of contest upon me, at the city of Washington, in the District of Columbia, on this the — day of December, A. D. 1912.

_____,
Contestee.

EXHIBIT A.

[Amendment to the constitution of the State of Oklahoma, section 4a of article 3.]

No person shall be registered as an elector of this State or be allowed to vote in any election held herein unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was, on January 1, 1866, or at any time prior thereto entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person shall be denied the right to register and vote because of his inability to so read and write sections of such constitution.

Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the precinct election officers, when electors, apply for ballots to vote.

EXHIBIT B.

DEPARTMENT OF JUSTICE,
OFFICE OF THE UNITED STATES ATTORNEY,
WESTERN DISTRICT OF OKLAHOMA,
Guthrie, October 31, 1912.

Mr. FRED A. WAGONER,
Deputy County Attorney, Chandler, Okla.

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the "grandfather law," and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law. I presume your question has arisen on account of the apparent conflict between the decision of the supreme court of the State of Oklahoma and the United States District Courts for the Eastern and Western Districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law must be kept in mind. As to the purely State questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved; that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without

submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that, after very extensive argument by some of the best legal talent of the State, it has already been in positive terms declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts having jurisdiction over the entire State have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then when prosecuted in a Federal court for doing so defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quimm, who were convicted in the Federal court at Enid, in 1911, for violating section 19 of the Federal Criminal Code in enforcing the grandfather law at the general election in November, 1910, the defense of good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution—that is, in November, 1910—no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasi judicial officers in a quasi judicial capacity, and being officers of inferior and restricted jurisdiction are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decisions.

Respectfully,

HOMER N. BOARDMAN,
United States Attorney.

EXHIBIT C.

TALK IT OVER WITH YOUR WIFE, MR. ELECTION OFFICIAL, AND REMEMBER THAT
YOU WILL GO TO THE PENITENTIARY

if you violate the Federal election laws, and not Gov. Cruce nor his brother, Attorney A. C. Cruce. You will remember that the latter defended Beall and Quinn, who last year were convicted in the United States court at Enid and sentenced to the penitentiary for violating the Federal election law, and the State paid the attorneys in these cases about \$14,000 for defending these two men. This averages about \$7,000 per case. It is not likely that the people of this State, already overburdened with taxes, will be willing to continue to pay out \$7,000 every time an election official violates the Federal statutes. The people are not sufficiently anxious to enrich the governor's brother, Attorney A. C. Cruce. Besides, what's the use? Where conviction is sure, there is nothing gained by paying out big sums of money for attorney fees. That is to say, there is nothing gained by anyone but the attorney.

EXHIBIT D.

Amended return.

STATE OF OKLAHOMA,
Oklahoma County, ss:

_____, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly qualified, appointed, and acting _____ of precinct _____, ward _____, Oklahoma City, said State. That an election was held in said precinct on that day; that intimidation was used against the election officials in said precinct, and threats of criminal prosecution made to the end that many negroes, who would be illegal voters, might vote; and that at said election in said precinct so many negroes did vote under the above-mentioned circumstances that it is impossible to determine what the

vote and result in said precinct would have been had not such facts and conditions existed as above stated; and this affiant asks that this amended return be made a part of the original returns from said precinct, and that said vote be not canvassed and the result in said precinct be not declared.

Subscribed and sworn to before me this ____ day of _____, 1912.

Notary Public.

My commission expires _____.

_____, of lawful age, being duly sworn, deposes and says that he served upon the Hon. Dick T. Morgan, contestee, a true and correct duplicate of the within notice of grounds of contest of John J. Carney, on the ____ day of December, A. D. 1912, by delivering to the said Hon. Dick T. Morgan, personally, said true and correct duplicate, at _____.

Subscribed and sworn to before me this ____ day of December, 1912.

ANSWER TO NOTICE OF CONTEST.

Comes now Dick T. Morgan, the contestee in the above-entitled cause, and for answer to the notice of contest of the said contestant, contesting the election of this contestee as Representative to the Sixty-third Congress of the United States of America, from the second congressional district of the State of Oklahoma, at the general election held in said district in said State on the 5th day of November, 1912, and reserving unto himself the right to hereafter object to the manner and time of the service and filing of the contestant's notice of contest, and reserving unto himself the right to hereafter object to said notice of contest because of the insufficiency, incompetency, irrelevancy, immateriality, vagueness, and uncertainty of each, every, and all of the allegations and grounds of contest contained in said notice of contest of said contestant, and insisting that the said contestant be placed upon strict proof of all allegations contained in the several grounds and paragraphs contained in said notice of contest:

First. Denies each, every, and all of the material allegations contained in and under the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth grounds or paragraphs of contest contained in said notice of contest, and denies each and every and all of the material allegations contained in said notice, save and except such as may hereafter be specifically admitted.

Second. For answer to the statements and allegations contained in paragraph 1 of contestant's notice of contest this contestee alleges and states that he specifically denies that at the regular election held in the second congressional district of the State of Oklahoma on the 5th day of November, 1912, the said contestant, John J. Carney, was the duly and regularly chosen and qualified nominee of the Democratic Party for the office of Congressman from the second district of the State of Oklahoma, as will be hereinafter set up, though this contestee admits that the name of the said contestant, John J. Carney, appeared upon the official ballot in said election as the candidate of the said party for the said office, and this contestee admits that he, the said contestee, Dick T. Morgan, was the duly and regularly chosen and qualified nominee of the Republican Party for the office of Congressman from the second district of the State of Oklahoma; that his name appeared upon the official ballot in said election as the candidate of said Republican Party for such office, and that there was an election held for said office in the State of Oklahoma on the 5th day of November, 1912.

Third. For answer to the statements and allegations contained in paragraph 2 of contestant's notice of contest this contestee admits that on or about the 22d day of November, 1912, the State election board of the State of Oklahoma canvassed the official returns of the various counties in said congressional district, and tabulated the votes returned for contestant and this contestee, and that upon the completion hereof said State election board announced that this contestee, Dick T. Morgan, was duly and legally elected to said office, and that thereupon said State election board, on or about said 22d day of November, 1912, issued and delivered to this contestee, Dick T. Morgan, a certificate of such election.

Fourth. For answer to the statements and allegations contained in paragraph 3 of the contestant's notice of contest this contestee admits, as herein-after specifically set forth under paragraphs 2 and 3 of this contestee's cross petition, and only to that extent, that the official returns of the votes cast at said election for the said contestant and said contestee, as made by the various precinct election boards in the counties of the said second congressional district of the State of Oklahoma to said State election board, and, as aforesaid, canvassed by the said State election board, were and are false, untrue, and incorrect, and did not and do not show the true and correct number of legal votes cast for the said alleged nominee, John J. Carney, and the contestee, Dick T. Morgan, at said election for said office; but this contestee denies specifically

that the said alleged nominee, John J. Carney, at said election received 25,171 votes, and this contestee denies that he only received 22,594 votes, and alleges and states, as will be hereinafter shown under sections 2 and 3 of his cross petition set out specifically, that he in truth and in fact received 24,945 votes, and that said 24,945 votes so received by this contestee as aforesaid were and are a plurality of all votes cast for all the candidates for said office at said election; and this contestee specifically denies that the said alleged nominee, John J. Carney, the contestant herein, was duly and legally elected or entitled to a certificate of election to the office of Congressman from the second congressional district of the State of Oklahoma, or that he, the said alleged nominee, contestant herein, is duly entitled to represent the second congressional district of the State of Oklahoma in the Sixty-third session of Congress for the period prescribed therefor by law.

Fifth. For answer to the statements and allegations contained in the fourth paragraph of contestant's notice of contest this contestee further admits that on the 2d day of August, 1910, the people of the State of Oklahoma adopted an amendment to the constitution of the State of Oklahoma substantially as set forth in paragraph 4 of said notice of contest of said contestant, and this contestee denies that said amendment is valid under the Constitution of the United States or that its provisions are applicable in an election for Representative in the Congress of the United States.

Sixth. For answer to the statements and allegations contained in the fifth paragraph of contestant's notice of contest this contestee further admits that under the terms of the amendment to the constitution of the State of Oklahoma and under the laws of the State of Oklahoma registration was required of all voters in cities of the first class as a prerequisite to the right to vote, but this contestee specifically denies that the registration officers in cities in said congressional district wrongfully permitted 1,021 negroes to register at said election, who voted for said contestee at said general election upon the 5th day of November, 1912; and especially does this contestee deny that any or all of the said alleged facts as set forth in paragraph 5 of said notice of said contestant were at said time or are now known to the said contestee, or that the said number of or any illegal votes so registered did not qualify under the terms and provisions of the said amendment to the constitution of the State of Oklahoma, and this contestee denies that any negroes voted in said cities except such as were duly registered after qualifying under the said laws of the State of Oklahoma.

And for further answer this contestee alleges and states that said allegations in said paragraph concerning the number of illiterate negroes or negroes who did not qualify for registration under the terms and provisions of the so-called grandfather clause could not in any event be true, for the reason that there were at that time in cities in the said second congressional district only 213 illiterate male negroes over the age of 21 years, none of whom were registered, and for this reason this contestee hereby objects to the vague and uncertain reference in said contestant's notice of contest to the number of negroes so alleged as having been wrongfully registered in the cities in said district; and this contestee asks and demands that the said contestant forthwith furnish to this contestee the names and addresses of the said alleged 1,021 negroes which said contestant alleges were unlawfully and wrongfully permitted to register.

Seventh. For answer to the statements and allegations contained in the sixth paragraph of contestant's notice of contest this contestee further admits that at the time of said election, and for some time prior thereto, and at all times mentioned in the sixth paragraph of the contestant's notice of contest, one Homer N. Boardman was the duly appointed, qualified, and acting United States district attorney for the western district of the State of Oklahoma; that practically all of the second congressional district is within that part of the State of Oklahoma which comprises the said western judicial district of the State of Oklahoma, but this contestee is informed and believes that no letter or opinion of the sort, kind, or character as set forth in said sixth paragraph of said notice of contest of said contestant, a copy of said alleged letter or opinion being attached to contestant's notice of contest and marked "Exhibit B," was written by the said Boardman, and this contestee therefore denies that said Boardman wrote a letter or opinion of the sort, kind, or character as set forth in said notice of contest, and demands strict proof of the same; and if the said Boardman did so write a letter of said sort, this contestee denies that it was written with the consent, knowledge, approbation, or connivance of this contestee; and this contestee denies that he entered into a conspiracy to, or

was a party to, or had any knowledge until long after the said 5th day of November, 1912, of any claim that any letter of the sort or kind or character as set forth in said sixth paragraph of said notice of contest had been in circulation in any manner whatsoever, and this contestee denies that said alleged so-called warning circular, an alleged copy of which is attached to said contestant's notice of contest and marked "Exhibit C," was written by the said Boardman, and denies that said alleged "warning circular" was written or composed by the contestee, or with the consent, knowledge, approbation, or connivance of the contestee; and this contestee denies that he entered into a conspiracy to, or was a party to, or had knowledge until long after the said 5th day of November, 1912, of any claim that any circular of this kind or character as set forth in said sixth paragraph of said notice of contest had been in circulation in any manner whatsoever; and this contestee neither admitting nor denying that said alleged letter or opinion or said alleged "warning circular" were in fact mailed to every precinct election official in the second congressional district of the State of Oklahoma, for the reason that he is totally unacquainted with the truth or falsity thereof, and he therefore denies said allegation and demands and prays that contestant be placed upon strict proof of the same; but should it appear that copies of the said alleged opinion and said alleged "warning circular" were in fact so sent to every precinct election official in said second congressional district of the State of Oklahoma, this contestee denies that it was done with his consent, knowledge, or connivance, or that they had the effect of intimidating the precinct election officials who conducted the said election for Congressman in the second congressional district of the State of Oklahoma or prevented them from conducting said election according to law; and this contestee denies that they had the effect of preventing the holding of a fair and legal election and denies that they had the effect of causing said election officials to allow any illegal or disqualified negro voters to vote at said election; and this contestee denies that the precinct election officers in any precinct in said district permitted any negroes to vote except such as were under said alleged amendment to the constitution of the State of Oklahoma and the laws of the State of Oklahoma qualified to vote; and this contestee alleges and states that if any negroes were allowed to vote in any election precinct in said second congressional district said negroes were legally qualified electors under the constitution of the State of Oklahoma and amendments thereto, and under the laws of the State of Oklahoma, and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma as one of the privileges guaranteed to them by the Constitution and laws of the United States. And this contestee denies specifically that the names of illegal negro voters are known to him; and this contestee hereby objects to the vague and uncertain reference in said sixth paragraph of said contestant's notice of contest as to the number of alleged illegal negro votes, and this contestee hereby demands of said contestant that he furnish to this contestee forthwith the names and addresses of any negroes who, as said contestant claims, were illegally or unlawfully allowed to vote at said election. That this contestee is informed and believes that the election officers in all precincts in said district in which negroes presented themselves to vote applied the test required under the amendment to the constitution of the State of Oklahoma, as set forth hereinbefore, and that all negroes who were allowed to vote in said district were legal and qualified electors, and that their votes should be counted; and this contestee alleges and states that even if the statements and allegations contained in said sixth ground of said notice of contest were true that it would not be sufficient ground for throwing out and not counting for this contestee said votes, or any of them. And this contestee further denies that he had at any time prior to the said date of said election, to wit, the 5th day of November, 1912, or that he had at any time up to this date, acquired knowledge that said letter or opinion and said "warning circular" had been sent to every or any of the precinct election officials in the second congressional district of the State of Oklahoma, or that they had been or were received by said election officials in due course of mail, or in any other manner prior to said election; and this contestee denies that the said Homer N. Boardman or other Federal officials in the State of Oklahoma intimidated the said precinct election officials or caused them to fail to perform their duties as required by law; and this contestee denies that said election officials were intimidated or failed to perform their official duties as precinct inspectors as required by law; and this contestee denies that he connived at, encouraged, or otherwise aided or abetted the said Homer N. Board-

man or other Federal officials in the State of Oklahoma in intimidating the said precinct election officials or in causing them to fail to perform their official duties as required by the constitution of the State of Oklahoma, the amendments thereto, and the laws of the State of Oklahoma; and this contestee denies the legal conclusion of the said contestant that fraud was perpetrated upon the contestant or that he was deprived of the certificate of election or that the contestant has or would have a plurality in said election over the contestee.

Eighth. For answer to the statements and allegations contained in paragraph 7 of said contestant's notice of contest, this contestee admits that Oklahoma County, Okla., is in the said second congressional district; that this contestee denies that in the said precincts of said county, as set forth in said paragraph, to wit, Luther Township, Deep Fork Township, Lincoln Township, town of Luther, Choctaw Township, Crutchco Township, Dewey Township, Springer Township, ward 2, precinct 6, of Oklahoma City, and ward 2, precinct 9, of Oklahoma City, any fraud, intimidation, or threats were used to the advantage of the said contestee, or that any illegal votes were cast in said precincts, and this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election officials allowed or permitted any negroes to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and amendments thereto and under the laws of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States.

The contestee hereby objects to the vague and uncertain reference in said paragraph 7 of contestant's notice of contest to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there were at that time in said Oklahoma County only 286 illiterate male negroes over the age of 21 years, and this contestee hereby demands of the said contestant that he furnish to this contestee forthwith the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. That this contestee is informed and believes, and therefore states it to be a fact, that the precinct election officers in said precincts when negroes presented themselves to vote applied the test required under and by the terms of the amendment to the constitution of the State of Oklahoma, as heretofore set forth herein, and that all negroes who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations contained in said seventh paragraph of contestant's notice of contest were true that it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

That in respect to the said alleged amended return of the precinct election officers in said above-mentioned precincts in Oklahoma County, this contestee neither admits nor denies the allegations in said seventh paragraph of said contestant's notice of contest, for the reason that he is personally totally unacquainted with the truth or falsity of the said allegations, but he is informed and believes and therefore states it to be a fact that none of the said precinct election inspectors in said above-mentioned precincts in Oklahoma County made, executed, or delivered to the county election board of Oklahoma County, State of Oklahoma, an amended return to the original return, setting forth that no legal election was held in said precincts or that the said officials were intimidated or threatened with criminal prosecution of any sort whatsoever, or that said precinct election officials asked by said alleged amended return that the vote in said township or election precinct be not counted, and this contestee hereby demands of the said contestant that he forthwith furnish to this contestee the names and addresses of said precinct election officials signing said alleged amended returns, if in fact they were so made, and that the said contestant forthwith furnish to this contestee the names and addresses of the 700 negroes who were illegally permitted to vote at said election without the test prescribed by the said amendment to the constitution of the State of Oklahoma, commonly known and referred to by the contestant as the "grandfather clause," and this contestee denies that the said county election board of Oklahoma County wrongfully refused to correct the returns in conformity with said alleged amended returns or reject the vote in said townships and

election precincts, and this contestee alleges and states that even if said amended returns were in fact so made by said precinct election officials, as set forth in said seventh paragraph of contestant's notice of contest, that said alleged amended returns were of no binding force or effect and that said alleged amended returns were not the sort, kind, or character of returns which said precinct election officials were required to make to the county election board of said county of Oklahoma under the terms and provisions of the laws of the State of Oklahoma.

Ninth. For answer to the statements and allegations contained in paragraph 8 of said contestant's notice of contest, this contestee admits that Blaine County is and was on said day of said election, to wit, the 5th day of November, 1912, in the second congressional district of the State of Oklahoma; that this contestee denies that in the precincts of said county, to wit, the township of East Watonga, East Lincoln, West Dixon, River, Watonga, Flynn, Logan, Arapahoe, Cedar Valley, Wells, and the third ward of Geary, any frauds, intimidation, or threats of the sort or kind or character set forth in paragraph 6 of contestant's notice of contest, or of any sort, kind, or character whatsoever were used or practiced by anyone, or that for any reason whatsoever the election officials of said precincts permitted any negroes to vote illegally or that there were any illegal votes cast in favor of this contestee as against said contestant, or that any fraud, intimidation, or threats were used therein to the advantage of this contestee, or that there were any illegal votes cast in said precincts, and this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election officials allowed or permitted any negro to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and amendments thereto and under the laws of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States.

The contestee hereby objects to the vague and uncertain reference in said eighth paragraph of contestant's notice of contest as to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there were at said time only 82 illiterate male negroes over the age of 21 years in all of said Blaine County, and this contestee hereby demands of the said contestant that he furnish to the contestee forthwith the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. That this contestee is informed and believes, and therefore states it to be a fact, that the precinct election officers in said precincts when negroes presented themselves to vote applied the test required under and by the terms of the amendment to the constitution of the State of Oklahoma, as heretofore set forth herein, and that all negroes who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations contained in said eighth paragraph of contestant's notice of contest were true that it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

Tenth. For answer to the statements and allegations of the ninth paragraph of contestant's notice of contest, this contestee denies that in the precincts of said county, to wit, precincts A and B of the second ward of El Reno, any fraud, intimidation, or threats were used to the advantage of this contestee as against the said contestant, or that the precinct election officials in fraud of the rights of the contestant or in fear of criminal prosecution or on account of any threats permitted any illegal votes to be cast, and the contestee denies that any frauds, intimidations, or threats of the sort or kind or character set forth in paragraph 6 of contestant's notice of contest, or of any sort, kind, or character whatsoever, were used or practiced by anyone, or that for any reason whatsoever the election officials of said precincts permitted any negroes to vote illegally, or that there were any illegal votes cast in favor of this contestee as against said contestant, or that any fraud, intimidation, or threats were used therein to the advantage of this contestee, or that there were any illegal votes cast in said precincts, and this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election

officials allowed or permitted any negroes to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and the amendments thereto and under the laws of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States.

The contestee hereby objects to the vague and uncertain reference in said ninth paragraph of contestant's notice of contest to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there were at said time only 34 illiterate male negroes over the age of 21 years in all of said Canadian County, and this contestee hereby demands of the said contestant that he furnish to the contestee forthwith the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. That this contestee is informed and believes, and therefore states it to be a fact, that the precinct election officers in said precincts when negroes presented themselves to vote applied the test required under and by the terms of the said amendment to the constitution of the State of Oklahoma, and that all negroes who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations contained in said ninth paragraph of contestant's notice of contest were true, that it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

Eleventh. For answer to the statements and allegations set up in the tenth paragraph of contestant's notice of contest, this contestee alleges and states that he admits that Caddo County, Okla., is in the said second congressional district of the State of Oklahoma; that this contestee denies that in said precincts of said county as set forth in said paragraph, to wit, the first ward of the city of Anadarko, the second ward of the city of Anadarko, ——— and ———, townships, all in said Caddo County, any fraud, intimidation, or threats were used to the advantage of this contestee as against the said contestant or that the precinct election officials in fraud of the rights of the contestant or in fear of criminal prosecution or on account of any threats permitted any illegal votes to be cast, and this contestee denies that any frauds, intimidation, or threats of the sort or kind or character set forth in paragraph 6 of contestant's notice of contest, or of any sort, kind, or character whatsoever, were used or practiced by anyone, or that for any reason whatsoever the election officials of said precincts permitted any negroes to vote illegally or that there were any illegal votes cast in favor of this contestee as against said contestant, or that any fraud, intimidation, or threats were used therein to the advantage of this contestee, or that there were any illegal votes cast in said precincts, and this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election officials allowed or permitted any negroes to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and amendments thereto, and under the laws of the State of Oklahoma, and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States.

The contestee hereby objects to the vague and uncertain reference in said tenth paragraph of contestant's notice of contest to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there were at said time only 89 illiterate male negroes over the age of 21 years in all of said county, and this contestee hereby demands of the said contestant that he furnish to the contestee forthwith the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. That this contestee is informed and believes, and therefore states it to be a fact, that the precinct election officers in said precincts when negroes presented themselves to vote applied the test required under and by the terms of the said amendment to the constitution of the State of Oklahoma, and that all negroes who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations contained in said tenth paragraph of contestant's notice of contest were true that

it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

Twelfth. For answer to the statements and allegations contained in paragraph eleventh of the contestant's notice of contest: This contestee alleges and states that he admits that Custer County, Okla., is in the second congressional district of the State of Oklahoma; that this contestee denies that in the precincts of said county, as set forth in said paragraph, to wit: Ward 1 of the city of Weatherford, ward 2 of the city of Weatherford, ward 3 of the city of Weatherford, Cedar Township and Grant Precinct and Township, any fraud, intimidation, or threats were used to the advantage of the contestee as against the said contestant, or that the precinct election officials in fraud of the rights of the contestant or in fear of criminal prosecution or on account of any threats permitted any illegal votes to be cast, and this contestee denies that any frauds, intimidation, or threats of the sort of kind or character set forth in paragraph sixth of contestant's notice of contest, or of any sort, kind, or character whatsoever were used or practiced by anyone, or that for any reason whatsoever the election officials of said precincts permitted any negroes to vote illegally, or that there were any illegal votes cast in favor of this contestee as against said contestant, or that any fraud, intimidation, or threats were used therein to the advantage of this contestee, or that there were any illegal votes cast in said precincts. And this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election officials allowed or permitted any negroes to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and amendments thereto and under the laws of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States.

The contestee hereby objects to the vague and uncertain reference in said eleventh paragraph of contestant's notice of contest to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there are and were on said election day only 13 illiterate male negroes over the age of 21 years in all of said county, and this contestee hereby demands of the said contestant that he furnish to the contestee forthwith the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. That this contestee is informed and believes, and therefore states it to be a fact, that the precinct election officers in said precincts when negroes presented themselves to vote applied the test required under and by the terms of the amendment to the constitution of the State of Oklahoma, and that all negroes, who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations contained in said eleventh paragraph of contestant's notice of contest were true that it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

Thirteenth. For answer to the statements and allegations contained in paragraph 12 of contestant's notice of contest this contestee denies that in said precincts of said county of Alfalfa, as set forth in said paragraph, to wit: ——— and ——— Townships any fraud, intimidation, or threats were used to the advantage of this contestee as against the said contestant, or that the precinct election officials, in fraud of the rights of the contestant, or in fear of criminal prosecution, or on account of any threats, permitted any illegal votes to be cast and the contestee denies that any frauds, intimidation, or threats of the sort of kind or character set forth in paragraph 6 of contestant's notice of contest, or of any sort, kind, or character whatsoever were used or practiced by anyone, or that for any reason whatsoever the election officials of said precincts permitted any negroes to vote illegally or that there were any illegal votes cast in favor of this contestee as against said contestant, or that any fraud, intimidation, or threats were used therein to the advantage of this contestee, or that there were any illegal votes cast in said precincts, and this contestee denies that the precinct election officials in said election precincts allowed any illegal or disqualified negro voters to vote at said election, and this contestee denies that the precinct election officials allowed or permitted any negroes to vote, except such as were qualified to vote under the constitution of the State of Oklahoma and amendments thereto and under the laws

of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States. The contestee hereby objects to the vague and uncertain reference in said twelfth paragraph of contestant's notice of contest to the number of negroes who, as claimed by the contestant, were illegally allowed to vote, and this contestee alleges and states that there are now and were on said election day no illiterate male negroes over the age of 21 years in said Alfalfa County, and this contestee hereby demands of said contestant that he forthwith furnish to this contestee the names and addresses of any and all negroes whom the contestant claims were illegally and unlawfully allowed to vote at said election in said precincts. And this contestee is informed and believes and therefore states it to be a fact that the precinct election officials in said precincts, when negroes presented themselves to vote, applied the test required under and by virtue of the terms of the said amendment to the constitution of the State of Oklahoma, and that all negroes who were allowed to vote in said above-mentioned election precincts were legal and qualified electors and voters and that their votes should be counted, and this contestee alleges and states that even if the statements and allegations set forth in said twelfth paragraph of said contestant's notice of contest were true that it would not be sufficient ground for throwing out and not counting for this contestee said votes in said precincts or any of them.

Fourteenth. For answer to the statements and allegations contained in paragraph 13 of said contestant's notice of contest, this contestee hereby reiterates and restates all of the allegations and statements by this contestee in paragraph 7 of this his said answer and asks that all of the said statements and allegations of said seventh paragraph of this the said contestee's answer be considered as reiterated and restated herein as if the same were fully set out herein, and this contestee hereby refers to and makes said seventh paragraph of this answer a part of this the fourteenth paragraph of this answer, as fully and completely as if the same were set out and rewritten herein verbatim.

Fifteenth. For answer to the statements and allegations contained in the fourteenth paragraph of contestant's notice of contest, this contestee admits that Texas County, Okla., is and was, on said day of said election, to wit, on the 5th day of November, 1912, in the second congressional district of the State of Oklahoma, but he denies that in seven precincts in said county, or in any precincts in said county, no returns were made to the county election board of said Texas County by the precinct election officials, and this contestee denies that the names of the said seven election precincts in said county, as to which said contestant in the fourteenth paragraph of his notice of contest alleges no returns were made by the precinct election officials to the said county election board were or are now known to him, and this contestee hereby demands that the said contestant forthwith furnish to this contestee the names of the said alleged seven precincts in which contestant alleges in said fourteenth paragraph of his notice of contest, that no returns were made by the precinct election officials thereof to the county election board of said county; and this contestee says that he is not informed as to the truth or falsity of the allegation by said contestant in said fourteenth paragraph of contestant's notice of contest, that the ballot boxes in said alleged seven precincts were securely locked, the ballots deposited therein, that since the said election said ballots have not been tampered with and that they have been under lock and key and securely protected since said election, and he therefore denies said allegations and asks and demands that the contestant be placed upon strict proof thereof; and this contestee asks and prays that said ballots be not counted as prayed for by contestant in said paragraph of said notice of contest for the reason that said ballots have not been kept according to law; that great opportunity has been given to change, alter, mutilate and destroy said ballots, and that at this time the true result of the said vote could not be determined; and this contestee denies that the counting of said alleged ballots as alleged by said contestant would show that said contestant received 318 votes, or that said counting would show that said contestee secured only 162 votes, but this contestee alleges and states that should said ballots be counted, they will show that in said precincts this contestee received many more votes than the said contestant.

Sixteenth. For answer to the statements and allegations contained in the fifteenth paragraph of contestant's notice of contest, this contestee admits that Beaver County, Okla., is and was on said day of said election, to wit, on the

5th day of November, 1912, in the second congressional district of the State of Oklahoma, and that Logan Township is and was on said day in said county of Beaver, but this contestee denies that in said township the election therein was not held according to law or that any provision of the election laws of the State of Oklahoma were violated in said precinct, or that during said day as high as 12 at a time were in the precinct voting booth of said Logan precinct, showing each other their ballots or telling each other how to vote, or that there were as many as 20 in said polling place at once, and this contestee alleges and states that even if the said alleged acts so complained of by said contestant did occur, they would not be sufficient to render the election in said precinct void, and this contestee alleges and states that even if the said alleged irregularities should have occurred, that none of the votes cast therein should be thrown out or rejected, for the reason that it is not shown that the said alleged irregularities resulted in an actual miscount of the votes of the duly qualified electors in said precinct as actually cast, or that the said alleged irregularities resulted in a failure to express the intent and will of the voters in said precinct as between the contestant and this contestee.

Seventeenth. For answer to the statements and allegations of the sixteenth paragraph of contestant's notice of contest, this contestee denies that in each or any of the precincts in Texas County, Okla., the election was not held according to law, or that there were in said county cast illegally 398 votes, or any illegal votes, for this contestee, or that in truth or in fact the contestant has a plurality over this contestee in said county; and this contestee expressly objects to the consideration of said ground of contest for the reason that the allegations in said paragraph in reference to said alleged illegal votes are vague, indefinite, uncertain, and insufficient as a ground of contest, and this contestee asks and demands that the contestant forthwith furnish to this contestee the names and addresses of the alleged 398 voters who, as contestant alleges, illegally cast their votes for this contestee, and that the contestant forthwith furnish to this contestee a statement of the alleged grounds of illegality or the reasons for the illegality of said alleged votes.

Eighteenth. For answer to the statements and allegations contained in the seventeenth paragraph of said contestant's notice of contest, this contestee denies that in each and every, or in any, county in said second congressional district of the State of Oklahoma there was practiced, either by this contestee or by anyone in his behalf, as against said contestant, any fraud, intimidation, or illegal voting; and this contestee alleges and states that should it be shown practiced as alleged. And this contestee specifically denies that any fraud or intimidation shown, that they were not enough to change the result in favor of the contestee as against said contestant, and this contestee hereby objects to the consideration of the allegations contained in said seventeenth paragraph of said contestant's notice of contest, for the reasons that the said allegations are vague, indefinite, uncertain, incompetent, irrelevant, and immaterial, and insufficient as a ground of contest; and this contestee hereby asks and demands of the said contestant that he forthwith furnish to this contestee more definite information as to the precincts in which, and the names and addresses of the persons by whom, said alleged fraud, intimidation, and illegal voting were practiced as alleged. And this contestee specifically denies that any fraud or illegality was practiced in any precinct or county in said district in the interest of this contestee, as alleged in said seventeenth paragraph of contestant's notice of contest, and this contestee further alleges and states that in each and every precinct, and in each and every county throughout said district, the majority of the election officials were members of the same political party as the said contestant.

Nineteenth. For answer to the statements and allegations contained in the eighteenth paragraph of said contestant's notice of contest, this contestee admits that the State election board of the State of Oklahoma did, as heretofore admitted herein, make, execute, deliver, and issue to this contestee a certificate of election as a Member of the Sixty-third Congress from the second congressional district of the State of Oklahoma; that he has no information as to the truth or falsity of the statements and allegations contained in said eighteenth paragraph regarding said alleged protest, and he therefore denies said statements and allegations, and asks and demands that the contestant be placed upon strict proof thereof. And this contestee denies that in so issuing said certificate of election said State election board acted in fraud of the rights of said contestant; and this contestee hereby objects to the consideration of the statements and allegations contained in said paragraph for the reason

that the same are incompetent, irrelevant, and immaterial, and insufficient to give to the contestant any rights, and this contestee asks and demands that if said alleged protest and objection to the issuance of said certificate was in writing, said contestant furnish this contestee with a copy thereof, and, if verbal, that said contestant inform and advise this contestee of the substance and grounds of said alleged protest and objection.

Twentieth. For answer to the statements and allegations contained in the nineteenth paragraph of said contestant's notice of contest, this contestee alleges and states that he is not informed as to the truth or falsity of the statement in said paragraph to the effect "that in said election in said congressional district 1,740 negroes voted," and he therefore denies said allegation and asks and demands that said contestant be placed upon strict proof of said statement and allegation; and this contestee denies that negroes who had never been legally enfranchised voted in said district at said election, and this contestee denies that any precinct election official in said district allowed or permitted any negroes to vote except such as were qualified to vote under the terms, provisions, and requirements of the constitution of the State of Oklahoma, and amendments thereto, and under the laws of the State of Oklahoma, and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma, as one of the privileges guaranteed to them by the Constitution and laws of the United States. And this contestee alleges and states that all negroes who were allowed to vote at said election in said district were qualified voters of the State of Oklahoma and of the United States of America, and this contestee denies that the negro race has never been enfranchised according to law, and this contestee denies that the fourteenth and fifteenth amendments to the Constitution of the United States of America have never been legally adopted, and denies that said amendments were not then, and were not at the general election of November 5, 1912, in full force and effect, and specifically demands of the said contestant that he be placed upon strict proof of said allegations.

CROSS PETITION.

And this contestee, Dick T. Morgan, for further reasons and grounds for the dismissal of the notice of contest of John J. Carney, contestant herein, and for further grounds and reasons for the retention of his office of Representative in the Sixty-third Congress of the United States of America from the second congressional district of the State of Oklahoma, and as further grounds and reasons why the said contestant, John J. Carney, is not entitled to maintain this contest against the contestee, or entitled to a seat in Congress, this contestee alleges and states:

First. That at the primary election held in the second congressional district of the State of Oklahoma, which said primary election was held in pursuance of and under the authority of the laws of the State of Oklahoma, the said John J. Carney and one James S. Ross and others were candidates on the Democratic Party ticket for the nomination as the Democratic Party candidate for Representative in Congress from the second congressional district of the State of Oklahoma, and that the names of the said John J. Carney and James S. Ross were duly and lawfully placed upon the Democratic ticket prepared, furnished, and used by the qualified Democratic electors who cast Democratic ballots at said primary election; that from all of the counties, parts of counties, townships, and precincts included within said second congressional district the proper county election boards of the several counties within said congressional district made due, regular, truthful, and lawful returns to the State election board of the State of Oklahoma of the result of said primary election between the said Ross and the said Carney, except the county election board of Oklahoma County, which said county election board of Oklahoma County made due, legal, regular, and truthful returns to the State election board of the State of Oklahoma of the result of said primary election between the said Ross and the said Carney, except with reference to precinct 6 of ward 1 of Oklahoma City, in said Oklahoma County, and the said county election board of Oklahoma County, in making the returns and certificate of the result of the said primary election between the said Ross and the said Carney and other candidates for said Democratic nomination in said precinct 6 of ward 1, falsely, erroneously, and through mistake certified, stated, declared, and made return to the

said State election board that the said Ross received only 26 votes, when in truth and in fact said Ross received in said precinct 6 of ward 1, 76 votes, as shown, stated, and declared by the official returns and counter's certificate of the duly and lawfully qualified acting precinct election board from said precinct 6 in ward 1.

And this contestee alleges and states that the official returns and the counter's certificate in due, lawful, and regular form, which was duly and regularly delivered to the county election board of said Oklahoma County by the said precinct election officers of said precinct 6 of ward 1, in Oklahoma City, Oklahoma County, State of Oklahoma, show, state, and declare that in said precinct at said primary election said Ross received 76 votes, and that by the books and records required by law to be kept by said county election board, showing and stating the number of votes received by each candidate for said nomination in the several voting precincts in said county, it is by said books and records shown, stated, and declared that in said precinct 6 of ward 1 of Oklahoma City, in said county and State, that the said Ross received 76 votes in said election; that the said election board of the State of Oklahoma, in tabulating, compiling, and reaching a result as to the one receiving the most votes in said primary election for said Democratic Party nomination for Congress from said district from and on the returns from the different county election boards in said district, received and accepted and acted upon the said false, erroneous, and mistaken return and certificate received from the county election board of the Oklahoma County, in and upon which it was shown, stated, and declared that in said precinct 6 of ward 1, in Oklahoma County, in said State, that the said Ross received only 26 votes.

That the returns from all other counties, parts of counties, precincts, and townships included within the said congressional district, as made by the different and proper county election boards for the several counties therein, are correct and that the number of votes received by the said Ross in said district for said nomination, including only 26 votes in said precinct 6, ward 1, as shown and declared thereby, is 3,868 votes; that the total number of votes received by the said John J. Carney, this contestant, in said district for said nomination, as shown and declared thereby, is 3,906 votes, and that in said primary election no other candidate for said nomination in said district as shown by said returns received more than 3,730 votes.

That on or about the 28th day of August, 1912, the county election board of Oklahoma County, in said district, transmitted and delivered to the State election board of the State of Oklahoma an amendment to their original return and certificate, correcting and making true the aforesaid erroneous and untrue return theretofore made by the county election board of said county to the State election board of the State of Oklahoma, the result of said election for said Democratic Party nomination for Congress between the said Ross, the said Carney, and other candidates for said nomination a full and correct copy of said amended and corrected return and certificate is hereto attached, marked "Exhibit A" for identification, and is hereby made a part hereof as if fully set out herein verbatim.

That in truth and in fact, as shown by the said regular, correct, official, legal, and lawful returns of all of the various counties, parts of counties, townships, and precincts included within and comprising said congressional district, that the said Ross, as a candidate for the Democratic Party nomination for Congressman for the second congressional district of the State of Oklahoma, received 3,918 votes, and that the said Carney, as said candidate for said nomination for said office, received only 3,906 votes, and no more, and that the said Ross received a plurality of all of the votes cast for candidates for said Democratic nomination for Congress in said district; that by reason thereof the said John J. Carney, contestant herein, was never in fact duly, legally, or lawfully nominated as the nominee of the Democratic Party for Congress from the second congressional district of the State of Oklahoma, and the said Carney was not, as is alleged and stated in paragraph 1 of contestant's notice of contest, at the regular election held in the second Congressional district of the State of Oklahoma, the duly and regularly chosen and qualified nominee of the Democratic Party for the office of Congressman from the second district of the State of Oklahoma, and not being the duly and regularly chosen and qualified nominee said contestant is not entitled to maintain this contest and is not entitled to be declared the duly elected Member of Congress from the second congressional district of the State of Oklahoma, and is not entitled to be awarded a seat as a Member of Congress from said congressional district.

EXHIBIT A.

OKLAHOMA CITY, OKLA., August 28, 1912.

HON. BEN W. RILEY,

Secretary State Election, Oklahoma City, Okla.

DEAR SIR: In reference to the official returns from Oklahoma County, which was certified to you on August 17 date by the Oklahoma County election board, we desire to state that there has been a clerical error discovered in the returns for Congressman of the second district on the Democratic ticket.

In precinct 6 of ward 1, Oklahoma City, the precinct election board's returns show the following number of votes cast for Congressman in the second district: J. J. Carney, 54; J. S. Ross, 76; George W. Cornell, 23; R. B. Forrest, 4; Dan Peery, 20; Ed Ballew, 2; Tom Ballew, 3.

You will find that the tally sheet which we certified to you shows that J. S. Ross received only 26 votes in the above precinct, when, in fact, it should have shown him to have received 76 votes in the above precinct.

We therefore respectfully ask that you make this correction on our tally sheet now on file in your office, and oblige.

Very respectfully,

THE OKLAHOMA COUNTY ELECTION BOARD,
DAVE MORROW, *Chairman*.
E. A. RINGOLD, *Secretary*.

Second. That there was an election held for the office of Representative in the Sixty-third session of the Congress of the United States in the second congressional district of the State of Oklahoma on the 5th day of November, 1912; that this contestee, Dick T. Morgan, was the duly and regularly chosen and qualified nominee of the Republican Party for said office and his name appeared upon the official ballot in said election as the candidate of the said Republican Party for said office; that the contestant's name appeared upon the official ballot in said election as the candidate of the Democratic Party for said office; that Blaine County, State of Oklahoma, was on the day of said election and is now in said congressional district; that in said county in all of the election precincts therein due, lawful, regular, and legal election was held on said 5th day of November, 1912, and duly, regularly qualified and chosen election officials presided thereat in all respects in accordance with the laws of the State of Oklahoma in force on said day; that all of the electors and voters who voted in said county were legal and qualified voters and all the persons in said county who voted at said election and who were negroes were qualified voters and electors under the constitution of the State of Oklahoma and amendments thereto and under the laws of the State of Oklahoma and were entitled to vote and exercise the right of suffrage in the selection of a Member of Congress from the second congressional district of the State of Oklahoma as one of the privileges guaranteed to them by the Constitution and laws of the United States; that after the closing of the polls in each, every, and all of the said election precincts the votes cast by the qualified electors of said county were duly and legally counted by said several precinct election officials in each, every, and all of said precincts in said county, and that due, legal, lawful, and regular returns were made out by said precinct election officers and returns were made by said several precinct election officers to the duly and regularly chosen, qualified, and acting county election board of the said Blaine County by, on, or about the 7th day of November, 1912, all of the said acts of the said several precinct election officers being in strict compliance with and according to the terms and provisions of the laws of the State of Oklahoma applicable thereto.

That thereupon, and after the said legal, lawful, and regular returns by said precinct election boards and officials from each, every, and all of the precincts in said Blaine County had been made to and received by the said county election board, the said county election board proceeded to canvass said returns and thereupon and after canvassing said returns and tabulating the returns from the said election precincts, the said county election board made entry upon their records showing that the contestant had received a total of 1,198 votes in said county, and that this contestee had received a total of 1,343 votes in said county, giving to this contestee a plurality of 145 votes over the said contestant; that thereafter and before said county election board had made out and returned to the State election board of the State of Oklahoma their return showing the votes so received in said county by said contestant and this contestee, and notwithstanding that it then became the duty of said county election

board, under the laws of the State of Oklahoma to make their legal, true, and correct returns to the State election board of the State of Oklahoma, showing the votes so actually received by said contestant and this contestee. the said county election board disbanded, and failed, refused, and neglected to convene again until on or about the 13th day of November, 1912, when two of the said county election board, D. P. Hogan and T. W. Mosley, said members being the Democratic members of said county election board, met and made out and signed and sent to the State election board an alleged return, purporting to show that said contestant had received 841 votes, and this contestee 772 votes; that in said alleged return so made by the said two members of said county election board to the said State election board, the vote of the said contestant and this contestee were, in the following precincts in said county illegally, unlawfully, and fraudulently entirely omitted, as follows: Cedar Valley Township, of precinct No. 6; Arapaho Township, or precinct No. 8; East Dixon Township, or precinct No. 9; East Lincoln Township, or precinct No. 10; Logan Township, or precinct No. 12; Flynn Township, or precinct No. 13; Watonga Township, or precinct No. 20; Canton Township, or precinct No. 23; West Dixon Township, or precinct No. 28; Carlton Township, or precinct No. 29; East Lincoln Township, or precinct No. 30.

That in truth and in fact the said action of the said county election board in so omitting to make return of the votes so cast in the said precincts was illegal, unlawful, fraudulent, unwarranted, and was a neglect of duty on their part and a violation of the legal duty of said county election board, under the laws of the State of Oklahoma, and the votes cast in said precincts ought to and should be counted, and this contestee alleges and states that the ballots in each, every, and all of the said voting precincts were all legally delivered by the several precinct election boards to the county election board of Blaine County, State of Oklahoma, and have since said delivery been safely and securely kept, sealed, locked, securely protected and have not been disturbed or tampered with, and no opportunity has been given or afforded to anyone to disturb, tamper with, change, unseal, or alter said ballots, and said ballots are in all respects in the same condition as when duly and legally sealed and deposited in the several election boxes by the said several precinct election officials, and the contestee hereby notifies the said contestant that upon the hearing of this contest and the taking of evidence and proof in support of the allegations and statements of this paragraph, this contestee will open said boxes and recount said ballots in and of said above-mentioned precincts as between said contestant and this contestee; and this contestee prays that he have an order requesting and requiring said county election board of Blaine County, State of Oklahoma, to securely keep said ballot boxes of said precincts until said boxes are opened and counted as between said contestant and this contestee; that the ballots of the qualified voters of said precincts will show if recounted and the legal returns from the said several precincts duly returned by the several precinct election boards and precinct officers to the county election board of Blaine County show that the said contestant and this contestee received therein the following votes, to wit:

Township.	No.	Carney.	Morgan.	Township.	No.	Carney.	Morgan.
Cedar Valley.....	6	30	39	Canton.....	23	55	104
Arapaho.....	8	27	47	West Dixon.....	28	25	39
East Dixon.....	9	39	31	Carlton.....	29	13	51
West Lincoln.....	10	45	39	East Lincoln.....	30	10	30
Logan.....	12	52	80				
Flynn.....	13	13	22				
Watonga.....	20	48	89	Total.....		357	571

The said contestant in said 11 precincts receiving a total of 357 votes and this contestee receiving in said 11 precincts a total of 571 votes, said 11 precincts thus giving to this contestee a plurality of 214 votes over said contestant; that in all of the other precincts in said county said contestant received 814 votes and this contestee 772 votes; that in truth and in fact said contestant received in said county 1,198 votes and this contestee received 1,343 votes, and this contestee asks and prays that this be declared to be the true result of said election in said county as between said contestant and this contestee, and that said plurality of 214 votes be added to this contestee's legal majority.

Third. That there was an election held for the office of Representative in Congress in the sixty-third session of the Congress of the United States of America from the second congressional district of the State of Oklahoma on the 5th day of November, 1912; that this contestee, Dick T. Morgan, was the duly and regularly chosen and qualified nominee of the Republican Party for said office and his name appeared upon the official ballot in said election as the candidate of the Republican Party for said office, and that said contestant's name appeared upon the official ballot in said election as the candidate of the Democratic Party for said office; that Oklahoma County was on the day of said election and now is in the said congressional district; that in all of the election precincts therein due lawful, regular, and legal election was held on said 5th day of November, 1912; and duly regularly qualified and chosen election officials presided thereat in all respects in conformity with the laws of the State of Oklahoma in force on said day; that the precinct election officials in the voting precincts as hereinafter set forth pretended to and did return to the county election board of Oklahoma County, State of Oklahoma, their official returns of the votes cast in said precincts as between said contestant and this contestee, and the duly chosen and qualified county election board of Oklahoma County, State of Oklahoma, did thereupon canvass and tabulate said alleged returns from the several precinct election boards as between said contestant and this contestee and pretended to and did certify the same to the State election board of the State of Oklahoma, upon which said returns the said State election board acted in declaring the plurality of this contestee over all other candidates for said office in said second congressional district to be 663 votes, but this contestee alleges and states that error was made, either by the said several precinct election boards and officials in the aforesaid returns so made by them to the said county election board of Oklahoma County, or, by the said county election board of Oklahoma County in the aforesaid returns so made by it to the State election board of the State of Oklahoma, and either the said returns so made by the said several precinct election boards as aforesaid to the county election board of Oklahoma County, or the said returns so made by the said county election board to the State election board of the State of Oklahoma, or both of said returns were and are false, untrue, and incorrect, in this, to wit, that the said returns do not truly and correctly set forth or state the true number of votes cast by the legally qualified voters of said several election precincts as between said contestant and this contestee; that the voting precincts where said mistakes occurred, the vote as so returned and the true and correct number of votes actually cast in the said several voting precincts as between said contestant and this contestee are as follows, to wit:

Oklahoma County.

	Vote as returned.		True and correct vote.	
	Carney.	Morgan.	Carney.	Morgan.
Voting precinct, Oklahoma City:				
Ward 1—				
Precinct 1.....	157	102	150	102
Precinct 2.....	164	134	149	134
Precinct 3.....	229	206	224	206
Precinct 6.....	199	141	190	141
Ward 2—				
Precinct 1.....	61	62	58	62
Precinct 2.....	136	129	125	129
Precinct 3.....	212	194	208	194
Precinct 4.....	238	186	232	186
Precinct 5.....	164	176	156	176
Precinct 7.....	208	156	202	156
Ward 3—				
Precinct 1.....	208	135	200	135
Precinct 2.....	255	153	245	153
Precinct 3.....	181	151	168	151
Precinct 5.....	148	100	141	100
Precinct 6.....	238	128	228	128
Precinct 7.....	230	122	202	122
Precinct 9.....	199	143	172	143
Precinct 10.....	133	107	126	107

Oklahoma County—Continued.

	Vote as returned.		True and correct vote.	
	Carney.	Morgan.	Carney.	Morgan.
Voting precinct, Oklahoma City—Continued.				
Ward 4—				
Precinct 1.....	144	106	142	136
Precinct 2.....	206	141	198	141
Precinct 3.....	68	80	63	80
Precinct 4.....	124	77	118	77
Precinct 5.....	116	77	111	77
Precinct 6.....	76	57	52	57
Precinct 7.....	42	47	42	57
Boone Township.....	56	51	51	51
Britton Township.....	22	18	17	18
Cass Township.....	90	59	85	59
Council Grove Township.....	41	51	36	51
Choctaw Township.....	97	105	92	105
Crutcho Township.....	35	80	30	80
Dewey Township.....	47	103	42	103
Deep Fork Township.....	44	36	59	36
Deer Creek Township.....	44	51	39	51
Edmond Township.....	30	36	25	36
Harrah City Township.....	81	65	76	65
Greeley Township.....	59	39	54	39
Hartzel Township.....	53	64	48	64
Elk City Township.....	33	48	28	48
Luther City Township.....	30	54	25	54
Lincoln Township.....	89	50	84	50
Mustang Township.....	80	71	75	71
Oklahoma A Township.....	39	18	33	18
Oklahoma B Township.....	31	45	27	45
Pottawatomie Township.....	96	129	89	129
Springer Township.....	41	47	36	47
Spring Creek Township.....				

and this contestee alleges and states that the ballots in each, every, and all of the said voting precincts were all legally delivered by the several precinct election boards to the county election board of Oklahoma County, State of Oklahoma, and have since said delivery been safely and securely kept, sealed, locked, securely protected, and have not been disturbed or tampered with, and no opportunity has been given or afforded to anyone to disturb, tamper with, change, unseal, or alter said ballots, and said ballots are in all respects in the same condition as when duly and legally sealed and deposited in the several election boxes by the said several precinct election officials; and the contestee hereby notifies the said contestant that upon the hearing of this contest and the taking of evidence and proof in support of the allegations and statements of this paragraph, this contestee will open said boxes and recount said ballots in and of said above-mentioned precincts as between said contestant and this contestee; and this contestee prays that he have an order requesting and requiring said county election board of Oklahoma County, State of Oklahoma, to securely keep said ballot boxes of said precincts until said boxes are opened and counted as between said contestant and this contestee; and this contestee alleges and states that a recount of the ballots in said precincts will show, and this contestee alleges and states, that the said contestant received 450 votes less in Oklahoma County than the said alleged returns showed, and that this contestee received 40 votes more in said Oklahoma County than the said alleged returns showed, and this contestee is entitled thus to have 490 votes added to his plurality as determined by the said State election board of the State of Oklahoma, to wit, 663 votes; and this contestee asks that the said 490 votes be added to the said official plurality in said congressional district.

Wherefore this contestee prays that the contestant have or obtain no rights by reason of the statements and allegations contained in the said contestant's notice of contest; that the contest of the said contestant be dismissed; and that upon the hearing hereof that there be added to this contestee's legal plurality of 663 votes heretofore given him 490 votes from Oklahoma County, 214 votes from Blaine County; that this contestee's legal plurality be declared to be 1,367 votes; and this contestee further prays that he be declared to be legally, lawfully, and rightfully entitled to the office of Representative in the Sixty-

third Congress of the United States of America from the second congressional district of the State of Oklahoma, and for such other and further relief as he may in equity and good conscience be entitled, and he will ever thus pray.

DICK T. MORGAN,

Contestee.

By MORGAN & DEUPREE,

His Attorneys.

ACKNOWLEDGMENT OF SERVICE.

I, John J. Carney, contestant in the above-entitled cause, hereby acknowledge service of the above answer and cross petition and the receipt of a true and correct copy thereof on this the 13th day of January, 1913.

JOHN J. CARNEY,

Contestant.

AFFIDAVIT OF SERVICE.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

Porter H. Morgan, of lawful age, being first duly sworn and on his oath, says that on the 13th day of January, 1913, he served upon John J. Carney, contestant in the above-entitled cause, the above and foregoing answer and cross petition, and on said day delivered to the said John J. Carney a true and correct copy of said answer and cross petition; and further affiant saith not.

PORTER H. MORGAN.

Subscribed and sworn to before me this the 18th day of April, 1913.

[SEAL.]

B. O. YOUNG,

Notary Public in and for Oklahoma County, State of Oklahoma.

My commission expires August 29, 1915.

TESTIMONY FOR CONTESTANT.

NOTICE TO TAKE DEPOSITIONS.

The said Dick T. Morgan and Porter H. Morgan, his attorney of record, will take notice that on Friday, the 31st day of January, 1913, the said John J. Carney, contestant above named, will take the depositions of sundry witnesses, to be used in evidence in the trial of the above cause, at the law office of Giddings & Giddings, 135½ West Main Street, Oklahoma City, Okla., before Mary S. Hill, a notary public in and for Oklahoma County, State of Oklahoma. That the names of the witnesses whose depositions so will be taken are: J. W. Sorrels, Oklahoma City, Okla.; F. L. Clark, Oklahoma City, Okla.; J. E. Lucas, Oklahoma City, Okla.; Frank Redding, Crutcho Township, Oklahoma County, Okla.; E. A. Wagner, Crutcho Township, Oklahoma County, Okla.; J. N. Spiers, Choctaw Township, Oklahoma County, Okla.; Frank L. Kenyon, Choctaw Township, Oklahoma County, Okla.; W. I. Davis, Dewey Township, Oklahoma County, Okla.; Thomas J. Clark, Dewey Township, Oklahoma County, Okla.; C. E. Burnsworth, Deep Fork Township, Oklahoma County, Okla.; F. H. Morris, Deep Fork Township, Oklahoma County, Okla.; E. Needham, Greeley Township, Oklahoma County, Okla.; J. E. Parks, Hartzell Township, Oklahoma County, Okla.; C. B. Jack, clerk, Hartzell Township, Oklahoma County, Okla.; Louis Vorel, Luther Township, Oklahoma County, Okla.; B. B. Moore, Luther Township, Oklahoma County, Okla.; T. H. Ray, Luther City, Oklahoma County, Okla.; H. E. Norman, Luther City, Oklahoma County, Okla.; M. S. Baker, Oklahoma A Township, Oklahoma County, Okla.; H. F. Ballard, Oklahoma A Township, Oklahoma County, Okla.; H. S. Lopp, Springer Township, Oklahoma County, Okla.; W. W. Barker, clerk, Springer Township, Oklahoma County, Okla.; W. H. Seiler, Spring Creek Township, Oklahoma County, Okla.; R. L. West, Spring Creek Township, Oklahoma County, Okla., all of said witnesses having been at the last general election, on November 5, 1912, precinct and township election officials within and for Oklahoma County, Okla.; E. A. Ringold, secretary of said county election board; Ben F. Riley, secretary of State election board; and the testimony of such other witnesses as the respective parties hereto may agree to take at said time and place, the said testimony to be taken between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, and that the taking of the same will be adjourned and continued from day to day at the same time and place and between the same hours until they are completed.

JOHN J. CARNEY,

Contestant.

By GIDDINGS & GIDDINGS,

His Attorneys.

Service of the above notice is hereby acknowledged to have been made on us this 25th day of January, A. D. 1913.

MORGAN & DEUPREE,

Attorneys for Contestee.

DEPOSITIONS.

Depositions of witnesses taken to be used in an action pending in the House of Representatives of the Congress of the United States, before Committee on Elections, wherein John J. Carney is contestant and Dick T. Morgan is contestee; in pursuance of the notice hereto attached, and at the place stated. The said John J. Carney appeared on the said 31st day of January, 1913, by his attorneys, Giddings & Giddings, and the said Dick T. Morgan appeared by

his attorney, Porter H. Morgan, and thereupon the taking of said depositions was continued and adjourned to the 1st day of February, 1913. On the said 1st day of February, 1913, the said parties to this action appeared by their said attorneys, and the taking of said depositions was continued and adjourned until the 6th day of February, 1913. On the said 6th day of February, 1913, the said contestant and contestee appeared by their respective attorneys, and the contestant produced the following witnesses in order, to wit, the said testimony being taken in shorthand by J. M. Harkin at the said office of Giddings & Giddings, 135½ West Main Street, Oklahoma City, Okla.:

STATE OF OKLAHOMA, *Oklahoma County*.

Before Mary S. Hill, a notary public in and for said county and State.

February 6, 1913, 9 o'clock a. m. Six witnesses sworn by the said notary.

W. I. DAVIS, called to the stand, testified as follows, to wit:

Direct examination by Mr. E. J. GIDDINGS:

Q. You may state your name.—A. W. I. Davis.

Mr. PORTER MORGAN. Now, wait a minute, I want to make some formal objections. Comes now Dick T. Morgan, contestee herein, by his attorneys, Morgan & Deupree, and objects to the taking of any testimony by John J. Carney, contestant herein, at this or any other time, or at this or any other place, for the following reasons, to wit:

First. Because the said alleged notice of contest of said contestant and each and every paragraph or ground of contest therein set forth under which the said contestant John J. Carney is now beginning to take testimony, is and are insufficient, vague, indefinite, and uncertain, and does not state or allege facts sufficient to constitute a ground or grounds for contest.

Second. Because the said alleged notice of contest was not served within the time allowed by law for so doing, and because the said notice of contest was not and has not been up to this present time properly filed with the proper and duly authorized offices as required by law.

Third. Because Mary S. Hill, for whom said contestant is about to take testimony, is not at this time a duly qualified officer before whom testimony in contestant election before the House of Representatives of the United States of America may be taken under the laws of the United States relative thereto, and is not at this time a qualified and acting notary, she not having received a lawful commission to act as a notary and not having filed her bond with such with the proper officer. Said bond, if any such has been filed, having never been approved by the proper and lawful offices.

Fourth. Because the notice to take this testimony at this time was not served upon the contestee, Dick T. Morgan, within the time allowed by law, and because the said notice does not set out or give the place of residence or post-office address of this or any other witness named therein whose testimony said contestant now seeks to take.

Fifth. Because the said alleged notice of contest heretofore attempted to be served upon this contestee does not give or set out or specify, and no paragraph or ground thereof give or sets out or specifies the grounds upon which said contestant relies in said contest.

Sixth. This contestee hereby objects to the taking of any testimony under the fifth paragraph of contestant's alleged notice of contest for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest and for the reason that the names and addresses or voting precincts of the alleged 1,021 negroes referred to therein are not set out, and this contestee by reason of said lack of names and addresses having been unable to make suitable preparation for the taking of testimony with reference to the statements of allegations contained in said paragraph, and this contestee hereby asks and demands the said contestant forthwith to furnish to this contestee or his attorneys the names and addresses of each, every, and all such negroes as referred to in said paragraph 5 of said contestant's notice of contest.

Seventh. This contestee further objects to the taking of any testimony under the sixth paragraph of said contestant's alleged notice of contest for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest, and for the reason that the names, addresses, and voting precincts of the alleged vast number of negroes referred to therein are not set out therein, this contestee by reason of said lack of

names, addresses, and voting precincts having been unable to make suitable preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands of the said contestant that he forthwith furnish to this contestee or his attorneys the names, addresses, and voting precincts of each, every, and all the said alleged vast number of negroes as referred in said paragraph 6 of the said contestant's notice of contest.

Eighth. This contestee further objects to the taking of any testimony under the seventh paragraph of contestant's notice of contest for the reasons that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest for the reason that the names, addresses, and voting precincts of the alleged 700 negroes referred to therein are not set out in said alleged contestant's contest, and for the reasons that the names, addresses, and voting precincts of the election officials who made an alleged amended return referred to therein are not set out, this contestee by reason of said lack of names, addresses, voting precincts having been unable to make suitable or sufficient preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestee or his attorneys the names, addresses, and voting precincts of each, every, and all the said alleged 700 negroes, and the names and addresses of each, every, and all of said precinct election officials referred to in said paragraph 7 of contestant's notice of contest.

Ninth. This contestee hereby objects to the taking of any testimony under the eighth paragraph of contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest, and for the reason that the names, addresses, and voting precincts of the alleged 247 negroes referred to therein are not set out in said alleged notice of contest, this contestee by reason of said lack of names, addresses, and voting precincts having been unable to make suitable and sufficient preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestee or his attorneys the names, addresses, and voting precincts of each, every, and all of the said alleged 247 negroes referred to in said paragraph 8 of contestant's notice of contest.

Tenth. This contestee hereby objects to the taking of any testimony under the ninth paragraph of contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground for contest, for the reason that the names, addresses, and voting precincts of the alleged 162 negroes referred to therein are not set out in said alleged notice of contest, this contestee by reason of said lack of names, addresses, and voting precincts having been unable to make suitable and sufficient preparations for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish the said contestee or his attorneys the names, addresses, and voting precincts of each, every, and all of the said alleged 162 negroes referred to in said paragraph 9 of contestant's notice of contest.

Eleventh. This contestee hereby objects to the taking of any testimony under the tenth paragraph of the contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest, and for the reason that the names, addresses, and voting precincts of the said alleged 162 negroes referred to therein are not set out in said alleged notice of contest, this contestee by reason of said lack of names, addresses, and voting precincts having been unable to make suitable and sufficient preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestant or his attorneys the names, addresses, and voting precinct of each, every, and all of the said alleged 162 negroes referred to in said paragraph 10 of said contestant's notice of contest.

Twelfth. This contestee hereby objects to the taking of any testimony under the eleventh paragraph of contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest, for the reason that the names, addresses, and voting precincts of the alleged 144 negroes referred to therein are not set out therein, this contestee by reason of said lack of names, addresses, and voting precincts having been unable to make suitable and sufficient preparations for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestee the names, addresses, and voting precincts of each, every, and all of the said

alleged 144 negroes referred to in said paragraph 11 of said contestant's notice of contest.

Thirteenth. This contestee hereby objects to the taking of any testimony under the twelfth paragraph of contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, indefinite, and insufficient to constitute a ground of contest, for the reason that the names, addresses, voting precincts of the alleged 81 negroes referred to therein are not set out therein, this contestee by reason of the lack of names, addresses, and voting precincts having been unable to make suitable and sufficient preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestee or his attorney the names, addresses, and voting precincts of each, every, and all of the said alleged 81 negroes referred to in said paragraph 12 of contestant's notice of contest.

Fourteenth. This contestee further objects to the taking of testimony under the thirteenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, indefinite, uncertain, and insufficient to constitute a ground of contest.

Fifteenth. This contestee further objects to the taking of any testimony under the fourteenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, uncertain, indefinite, and are insufficient to constitute a ground of contest.

Sixteenth. This contestee further objects to the taking of any testimony under the fifteenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, uncertain, indefinite, and are insufficient to constitute a ground of contest.

Seventeenth. This contestee further objects to the taking of any testimony under the sixteenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, uncertain, indefinite, and are insufficient to constitute a ground of contest.

Eighteenth. This contestee further objects to the taking of any testimony under the seventeenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, uncertain, indefinite, and are insufficient to constitute a ground of contest.

Nineteenth. This contestee further objects to the taking of any testimony under the eighteenth paragraph of contestant's notice of contest, for the reason that the statements and allegations therein contained are vague, uncertain, indefinite, and are insufficient to constitute a ground of contest.

Twentieth. And this contestee further objects to the taking of any testimony under the nineteenth paragraph of contestant's notice of contest, for the reason that the allegations therein contained are vague, uncertain, and indefinite, and insufficient to constitute a ground of contest, and for the reason that the names and addresses of the said alleged 1,740 negroes referred to therein are not set out therein, this contestee by reason of said lack of names, addresses, and voting precinct having been unable to make suitable and sufficient preparation for the taking of testimony with reference thereto, and this contestee hereby asks and demands that the said contestant forthwith furnish to this contestee or his attorneys the names, addresses, and voting precincts of each, every, and all of the said alleged 1,740 negroes referred to in said paragraph 19 of contestant's notice of contest.

Twenty-first. This contestee further objects to the taking of testimony at this time, for the reason that the notice to take evidence was served on contestee's attorneys on the 25th day of January, said notice reciting that testimony would be taken beginning on Friday, the 31st day of January, 1913, and said day no testimony was taken, and no testimony has been attempted to be taken by the said contestant until this the 6th day of February, 1913, when notice to appear at this time and place was served the contestee's attorneys by the said contestant orally.

Q. You may state your name.—A. W. I. Davis.

Q. Where do you reside?—A. Dewey Township, Oklahoma County.

Q. How long have you resided there?—A. Twelve years.

Q. What is your occupation?—A. Farming.

Q. Have you resided there continuously the last 12 years?—A. Twelve years.

Q. At the last general election held in the State of Oklahoma, on the 5th day of November, 1912, did you occupy any official position?—A. I did.

Q. What was it?—A. The office of inspector of election.

Q. In what township?—A. Dewey Township.

Q. Had you occupied a similar position previous to that?—A. The primary—the same position in the primary election of August 6, I believe.

Q. Are there any negroes there in that precinct?—A. There is.

Q. Were there at that time—the general election of 1912?—A. There was.

Mr. GIDDINGS. Mark these "A" and "B."

(Marked "A" and "B.")

Q. Can you approximate about the number of negroes in that township at that time over the age of 21?

Mr. MORGAN. Wait just a minute here. Contestee hereby objects to the question, for the reason that the same is incompetent, irrelevant, immaterial, leading, and suggestive, and no proper foundation having been laid therefor.

Q. About how many of them over the age of 21?—A. Over the age of 21—you mean male?

Q. Yes; male.

Mr. MORGAN. Wait a minute now. The contestee hereby objects further, for the reason the records of the election board would be the best evidence thereto; for the further reason that the question merely is as to the number of negroes over the age of 21 years in that voting precinct, and not as the number of negroes in said voting precinct over the age of 21 years who voted at said election.

A. No; I don't know how many male negroes there is in Dewey Township.

Q. Do you know about how many?

Mr. MORGAN. The same objection as last heretofore stated, with the further objection for the reason that the witness has already said that he didn't know.

A. Well, my best judgment—I would say that there is about 60.

Q. I hand you Exhibits A and B, and I will ask you if you have ever seen them before?

Mr. MORGAN. Now, wait a minute. Comes now the contestee and hereby—I withdraw that.

A. Yes; I have seen this matter before.

Q. Did you see it previous to the last general election?—A. I did.

Q. Where?—A. I received it through the mail the day before the election—on Monday before the election on Tuesday.

Q. Do you know whether or not the other election officials in Dewey Township received similar notices?

Mr. MORGAN. We object to that, for the reason that the same would be hearsay, incompetent, irrelevant, immaterial, leading, and suggestive.

A. They told me they did.

Mr. MORGAN. Comes now the contestee and moves that the said question and answer be stricken from the records, for the reason that the same is hearsay.

Mr. GIDDINGS. You can make all those objections at the hearing.

Mr. MORGAN. No; we have to make them as we go along.

Q. Who were the other election officials of that precinct?—A. Mr. T. J. Clark was clerk of the election and Mr. Ed Fobert was the judge.

Q. Is there more than one voting box in Dewey Township?—A. No, sir.

Q. You may state what effect, if any, the receipt of those notices had upon you in the enforcing of election laws of the State.

Mr. MORGAN. Comes now the contestee and objects to the question until it is shown in the record what the said alleged notices are.

Mr. GIDDINGS. We introduce them in evidence.

Mr. MORGAN. Comes now the contestee and—what is that, the Boardman letter and the penitentiary?

Mr. GIDDINGS. Yes.

Mr. MORGAN. Comes now the contestee and hereby objects to the introduction in evidence of said Exhibits A and B, for the reason that said Exhibit B has not been shown to have been sent out or sent to this witness with the knowledge or connivance of this contestee or that the said contestee connives that, and purged or otherwise aided and abetted the sending of said exhibit to said witness, and for the further reason that it has not been shown that the said letter was written by the said Homer M. Boardman, whose name is shown as signed to the said Exhibit B, and for the further reason that it has not been shown that Exhibit A was placed in the hands of or sent to the witness with the consent, knowledge, or connivance of the contestee herein, or that the contestee aided, abetted, assisted, or sent said Exhibit B to the said witness.

A. They made me afraid to enforce the grandfather clause.

Mr. MORGAN. Comes now the contestee and moves to strike that as being an opinion of the witness and a conclusion of the witness.

Mr. GIDDINGS. Now, I want you to go ahead and in detail state what occurred in your precinct on the last general election with reference to negro voting; just say how many negroes came there and the effect it had.

Mr. MORGAN. Comes now the contestee and objects to the question as vague, indefinite, and uncertain—multifarious.

Mr. GIDDINGS. Go ahead.

A. There was about—there was 48 negroes voted in the general election, I believe; there was quite a number, but I am not able to state just how many that voted by filing with me what they called qualification. And there were some that admitted they could not qualify and I told them I would not prevent them from voting; that is, I mean to say that there was a few that didn't pretend to try to qualify; there was two that tried to qualify and failed. Then I told them—they asked me then for permission to vote—I said I won't tell you you shan't vote, but I will tell you what I will do. If you vote I will protest your vote and that will be carried to the county attorney, and it will be with you and him whether you voted illegally or not, and then I read them the law on illegal voting. Those two after quite a while they got up and went out. They didn't ask for ballots, but others that came in and filed with me what purported to be, as they would consider it, I suppose, a qualification, called for ballots and voted. I didn't consider them qualifications, but still they claimed—they would claim that they were, and that would be up to the court as to whether it was a qualification or not, and therefore I was afraid to interfere with them voting.

Q. Are you a married man?—A. I am.

Q. Were you at this time?—A. Yes, sir.

Q. I hand you Exhibits C and D; mark them.

(Marked Exhibits "C" and "D.")

A. I have more of them if you need them. I didn't bring all of them; there was too big a bunch of them. Those are two that I considered qualifications. The others I didn't consider qualifications.

Q. I will ask you if those are specimens of the handwriting of negroes, commonly called colored people, who voted in Dewey Township at the last general election?—A. They are.

Mr. GIDDINGS. We introduce them in evidence.

(Hands Exhibits C and D back.)

Q. If it hadn't been for the receipt of the Exhibit A and Exhibit B would you permitted those negroes to have voted?

Mr. MORGAN. Comes now the contestee—

Mr. GIDDINGS. Wait until I get through—under the laws of this State?

A. I would not.

Mr. MORGAN. Wait a minute; wait a minute. Comes now the contestee and objects to the question for the reason that the same calls for the opinion and conclusion of the witness as to what occurred in his mind, and for the further reason that the evidence up to this time shows that the said witness did enforce the grandfather clause and the laws of the State of Oklahoma by requiring the said negroes to take the test.

Mr. GIDDINGS. Read the question.

(Question read.)

A. I would not.

Q. Mr. Witness, after you made your original return to the election board from the general election of November, 1912, did you file with the secretary of the election board of Oklahoma County any amended returns?

Mr. MORGAN. Comes now the contestee and objects to question for the reason that under the laws of the State of Oklahoma no amended return is required or called for or permitted to be made by the inspector of any election precinct in the State of Oklahoma.

A. I filed with the secretary of the election board an affidavit setting forth that under the laws of the State there had been illegal voting in that precinct.

Mr. MORGAN. Comes now the contestee and moves to strike the answer of the witness or that part of it relating to the contents of the affidavit for the reason that his statement is not the best evidence.

Q. Without the number of illegal votes in that precinct at the last general election, could you determine what the result would have been of the vote for the candidate for Congress from the second congressional district of Oklahoma, to wit, John J. Carney and Dick T. Morgan?

Mr. MORGAN. Comes now the contestee and objects to the question for the reason that the same is incompetent, irrelevant, immaterial, and calls for the conclusion and opinion of the witness.

Q. Answer the question.—A. No; I could not.

Q. Could it be ascertained?

Mr. MORGAN. Comes now the contestee and objects to the same.

Mr. GIDDINGS. Oh, you have in your objection.

Mr. MORGAN. For the reason that the same is incompetent, irrelevant, immaterial, and calls for the conclusion of the witness and the opinion of the witness.

A. Do you mean by the election board in Dewey Township?

Q. Yes.—A. No; I could not.

Q. Do you know what were then and there, to wit, at the last election, the politics of these negroes?

Mr. MORGAN. Comes now the contestee and objects to the question that the same is incompetent, irrelevant, immaterial, and the witness not having shown that he knows the politics of said alleged negroes. For the further reason that said alleged negroes had not been called to give evidence relating to their political affiliations in order to enable this witness to testify in regard thereto—if he knows.

Mr. GIDDINGS. He has lived there 12 years.

A. And how is that?

Q. If you knew the politics of these negroes who voted there?—A. I do.

Q. What were their politics?

Mr. MORGAN. The same objection as last made to the last question.

Mr. GIDDINGS. You made your objection.

A. Republican, politically.

Q. Was there any registration of voters in your township, to wit, Dewey Township, previous to the last general election.—A. Registration?

Q. Yes.—A. No; there was no registration.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. Mr. Davis, in this Dewey Township election precinct do you know how many negroes there are over the age of 21 years, males, in that precinct?—A. I don't know exactly; no, I don't know exactly.

Q. Now, Exhibits D and E here—those were some of the tests—those are evidence of some of the tests that were taken by negroes there in that voting precinct?—A. Those were their qualifications that they made at the time they came in to vote.

Q. How many negroes besides Aleck Morgan and Joe Ashford wrote out such qualifications before you?—A. I can't tell you exactly to the number, but between 45 and 50.

Q. Now, this 45 or 50; they all wrote out their qualifications and took the test?—A. In writing; yes, sir.

Q. Did you require them to read any part of the constitution?—A. Those that wrote, I did.

Q. Now, you say there were several who came to your voting precinct there—came in to the voting place and admitted that they could not vote.—A. That they could not qualify under the grandfather clause.

Q. That they could not qualify under the grandfather clause?—A. Yes, sir.

Q. Now, they didn't vote, did they?—A. There was two that presented themselves that attempted to qualify.

Q. And could not make it?—A. And admitted then that they could not make it.

Q. Now, were there any negroes in that precinct who voted who did not qualify by writing some part of the constitution of the State of Oklahoma?—A. Yes.

Q. How many were there?—A. I believe four.

Q. Four; what were their names?—A. Y. A. Watson was one.

Q. Y. A. Watson; who were the others?—A. And a school-teacher by the name of Anderson was another.

Q. Do you know his initials?—A. No; I don't remember his initials. And a school-teacher, I forget his name, that teaches in Dewey Township; I think it is Brice, it seems to me, but I would not be positive.

Q. Who is the other one?—A. A man by the name of Smith; I forget his initials—and the two that attempted, oh!

Q. Who were the two that attempted and could not make it, and who did not vote?—A. One was named Morgan and the other McLain.

Q. What are their initials?—A. Those two, and then there was Jones—McLain; I am mixed on that. McLain and Jones did not try to qualify; they didn't try to read or write.

Q. Did they vote?—A. They wanted to vote, but while they came in just at 6 o'clock, under the law I had to close the polls before they had a chance to vote.

Q. Now, then, who were the two who tried to qualify and failed and who didn't vote? Morgan is one of them.—A. Morgan is one and Stafford, I believe, is the other.

Q. What is Morgan's initials?—A. I don't remember Morgan's initials.

Q. Where did he live?—A. He lived on section 15. No; that is not it. Section 14 isn't it. No; it is section 20. Fourteen is south of you, isn't it? That is right. Yes; it is on section 15, in Dewey Township.

Q. Where does this fellow Stafford live?—A. He lives now on section 13. Did live—he has moved since the first of the year. I think that is the Stafford—that is a Stafford, and I think that is the same man, but I would not be positive about that.

Q. You say Morgan and Stafford did not vote?—A. No; they didn't vote.

Q. They attempted to qualify and could not make it and did not vote? Now, Jones and McLean are two negroes who came in too late, and they didn't vote?—A. Yes.

Q. And now there is four who voted without qualifying? Y. A. Watson—can he read and write?—A. Yes; he was a justice of the peace.

Q. Answer the question.—A. Yes.

Q. Now, W. H. Anderson, the school teacher—can he read and write?—A. He was vouched for, and a school-teacher, and he was allowed to vote by being vouched for by one of the—

Q. You didn't require him to take the tests?—A. No.

Q. You didn't require Y. A. Watson to take the tests?—A. Didn't ask them to.

Q. Now, as regards Brice, what do you say he does?—A. He was a school-teacher.

Q. You didn't ask him to qualify?—A. No; I didn't.

Q. J. B. Smith—did you ask him to qualify?—A. Yes; and the clerk of the election board vouched for him. I didn't know the man and didn't know whether he can read and write; so he vouched for him being able to read and write; and he voted.

Q. You didn't require him to take the tests?—A. No.

Q. Now, outside of Watson, Anderson, Brice, Smith, whom you allowed to vote without making them take the tests, all other negroes who voted on the 5th day of November, 1912, qualified by passing a test under your direction by writing some part of the Constitution?—A. By attempting to write a part of the Constitution.

Q. And they did write it to your satisfaction, so that you—A. No.

Q. So that you allowed them to vote?—A. No, sir.

Mr. GIDDINGS. Wait a minute; we object to that.

Q. But you did allow them to vote after they had taken some sort of tests?—A. We allowed them to vote.

Q. All of these others outside of these four they took some sort of test, did they, under your direction?—A. Yes.

Q. And then you allowed them to vote?—A. Yes; I allowed them.

Q. You gave them ballots and allowed them to vote?—A. Yes; they went to the clerk and got ballots.

Q. At your—A. As I said before—

Q. Wait just a minute; I want to ask a question.

Mr. GIDDINGS. You answer the question just as you want to, Mr. Davis.

A. Yes; all right.

Q. They went to the clerk and got their ballots; did you protest against the clerk giving them ballots?—A. I did not.

Q. Did anyone else on the board protest against him giving them ballots?—A. They did not.

Q. And you didn't protest?—A. No.

Q. Now, concerning the Exhibits A and B here—this letter—copy of this letter from Boardman and the Talk it Over With Your Wife circular; did the envelope which contained those two circulars bear the return card of Dick T. Morgan?—A. It didn't bear any return card at all.

Q. It didn't bear the return card of the Republican congressional committee of the second district, did it?—A. No, sir.

Q. It didn't have the name Morgan on it, or Dick T. Morgan on it anywhere?—A. Had no return card at all on it.

Q. And there was nothing inside it which contained the name Dick T. Morgan or the Republican congressional committee of the second district of the State of Oklahoma which would lead you to believe that it came from Dick T. Morgan or at his direction?—A. Nothing that would lead me to believe it came from Morgan; no.

Q. And you didn't consider that Morgan was threatening you with any prosecution if—

Mr. GIDDINGS. Wait a minute.

Q. If you enforced the grandfather clause?—A. No; Morgan didn't come into my mind at the time I received the communication.

Q. Or at any time during the day?—A. During the election—that I remember in connection with this letter.

Mr. MORGAN. I think that is all.

Mr. GIDDINGS. Answer the question as you want to.

A. But the fact that there was a United States attorney's name to this and that two men had been prosecuted in Oklahoma and convicted for attempting to enforce this law was the reason why I let men vote there who I did not consider had given me the proper qualification.

Mr. MORGAN. Comes now the contestee and moves to strike that part of the witness's answer relating to the signature on Exhibit B, and the reason why he allowed persons to vote whom he did not consider as qualified to vote for the reason that the same is not in response to the question propounded to the witness and entirely voluntary upon his part and for the further reason that same is a conclusion and opinion of the witness.

Mr. GIDDINGS. Is that all?

Mr. MORGAN. Yes.

Redirect examination by Mr. GIDDINGS:

Q. You did know that this letter of Boardman's stated that he was purely passing upon the matter from a Federal question standpoint, didn't he?—A. Yes, sir.

Mr. MORGAN. Wait a minute; we object to that for the reason that the exhibit is the best evidence.

Q. You knew that this letter had not come from the Democratic State Committee or from John J. Carney, didn't you?

Mr. MORGAN. Wait a minute; we object to that for the reason that the witness has not shown himself competent to testify in relation thereto and for the further reason that he has already testified that he could not tell from whom it came.

A. No; I didn't believe it came from Democratic headquarters or Judge Carney either.

Q. Mr. Witness, you were asked if the clerk out there and the other election officials protested against giving these negroes ballots. I want to ask you if you don't know as a matter of fact the reason that they didn't protest was on account of these very circulars.

Mr. MORGAN. We object to that for the reason that the same calls for hearsay and opinion and conclusion of the witness.

Q. Answer the question.—A. That is the reason I didn't protest.

Q. Don't you know, as a matter of fact, that is the reason the other Democratic members of that precinct election board did not protest?

Mr. MORGAN. Contestee objects to that for the reason that the same is hearsay or calls for an answer which would be hearsay and for the further reason that it calls for an opinion and conclusion of the witness and is not the best evidence.

Q. Answer the question.—A. How was that question?

Q. To the best of your knowledge. Read the question.

(Question read.)

A. To the best of my knowledge, I believe that is the reason.

Q. Have you ever served as an election official previous to the last primary?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. I never had.

Q. What was the mood of these negroes when they came to the polls that day?

Mr. MORGAN. Objected to as calling for an opinion and a conclusion.

Q. Were they in a sullen and angry mood or like the ordinary voter?—A. They showed a disposition to be considerably wrought up over the fact that they thought that the grandfather clause, as it is termed, was being pushed on them illegally and that they was being discriminated against. Some of them was sullen and wrought up considerable.

Mr. MORGAN. Comes now the contestee and moves to strike the answer as being an opinion and conclusion of the witness and for the further reason that the same is not redirect examination.

Mr. GIDDINGS. That is all; take the witness.

Recross-examination by Mr. MORGAN:

Q. Mr. Davis, state what, if anything, you saw which led you to believe that these negroes were wrought up.—A. One of them wrote my name—took my name and address—right in my presence, and said something to another negro. I didn't exactly understand all he said, but part of it was that we see about this matter.

Q. Did they threaten you with any physical harm?—A. No; I wasn't threatened to my face—not personally.

Q. Now, this occasion when this negro took your name—had you just turned down any negro then for failure to read and write—failure to go through the tests?—A. No; no; I hadn't refused any negroes to vote, the right to vote at all.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. What did you do with the ballot stubs of that election?—A. They went with the ballot book.

Q. To whom?—A. To the county election board. Oh, you mean those—

Q. The ballot stubs.

Mr. MORGAN. Put him back on the stand.

Mr. GIDDINGS. He is on the stand; he is under oath—the ballot stubs of the ballots voted.

A. With the names and address written of the electors?

Q. Yes.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. They was returned to the county election board with the other returns.

Q. How did you return them? Did you put them in the ballot box, or what did you do with them?—A. We just folded them up, sealed them in an envelope, put them in the ballot box, and locked them up—sealed them in an envelope, put in the ballot box and locked it up, and returned it to the county election board.

Mr. GIDDINGS. That is all.

Mr. MORGAN. That is all.

Mr. T. J. CLARK, being called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. You may state your name.—A. Clark—T. J. Clark.

Q. Where do you live, Mr. Clark?—A. I live in Dewey Township.

Q. What is your business?—A. Farmer.

Q. Are you a married man?—A. Yes, sir.

Q. How long have you been married?—A. How long have I been what?

Q. Married.—A. About 32 years.

Q. How long have you lived in Dewey Township?—A. I came there 15 years the 2d day of February.

Q. Did you hold any official position in the last general election held within the State of Oklahoma on November 5, 1912?—A. Yes, sir.

Q. What position was it?—A. I was clerk of the election board.

Q. Had you ever held that or a similar position before?—A. Not here; I was inspector here before.

Q. In the same township?—A. Yes, sir.

Q. When?—A. Two years ago last election; two years.

Q. At the election two years ago did you or any of the other election officials get any warning letters or circulars?

Mr. MORGAN. We object to that.

Q. As to what would be done with you if in the event you enforced the grandfather laws of the State?

Mr. MORGAN. We object to that for the reason that the same is incompetent, irrelevant, immaterial, and for the further reason that there was allegations in the contestant's notice of contest with respect to any warning circular or any letter sent to any election official or to this election official two years ago—in the election in 1910.

Q. Answer the question?—A. I don't understand it.

(Question read.)

A. I didn't get no letters.

Q. Did you receive any at the last general election?—A. Yes, sir.

Q. I hand you some contestant's Exhibit A and contestant's Exhibit B, and I will ask you if you received similar circulars to the ones now in your hands?

Mr. MORGAN. Comes now the contestee and objects to the same for the reason that there has been no showing that the contestee herein, Dick T. Morgan, had anything to do with the placing of said alleged circulars in the hands of the witness if they were so placed, or that Dick T. Morgan, the contestee herein, or anyone acting for or by him sent said alleged circulars similar to the one now in the witness's hands to the witness, or that the campaign committee conducting the campaign of the said contestee, Dick T. Morgan, sent any such letter or paper or circular to the witness.

Mr. GIDDINGS. The contestant contends it is the law that regardless of whether or not the said exhibits were sent to the election officials of this congressional district by the contestee; that if the sending of them accrued to the benefit of the contestee he is not in a position to complain. Read the question.

(Question read.)

A. I did.

Q. What effect, if any, did they have upon you in the enforcement of what is called or commonly termed the grandfather clause of the State?

Mr. MORGAN. Is this gentleman the Clark that was counter or clerk?

A. Clerk.

Mr. MORGAN. Comes now the contestee and objects to the question for the reason that the same is incompetent, irrelevant, and immaterial, calls for a conclusion and opinion of the witness, and for the further reason that under the laws of the State of Oklahoma the witness who has testified that he acted as clerk of the election board of Dewey Township precinct, Oklahoma County, is not authorized to enforce or to not enforce the so-called grandfather clause, it being the duty of the inspector, under the laws of the State of Oklahoma, to pass upon the qualifications of the voters presenting themselves to vote in the said precinct.

A. No; I didn't have anything to do in the enforcement, but I was afraid that we would have trouble. We didn't only get them notices, but we got other—I got other notices that there would be trouble there.

Mr. MORGAN. Comes now the contestee and moves to strike from the testimony an answer of the witness that part of his testimony relating to other notices, for the reason that the same is uncalled for by the question asked the witness.

Q. What were those other notices?—A. The night before election one of the counters came to me and told me—he said, "I wish I could get off this board; there is going to be trouble there to-morrow."

Mr. MORGAN. Comes now the contestee and moves to strike the latter answer of the witness relative to any other letters or warnings or talks had, for the reason that there are no allegations in the contestant's notice of contest with reference to any such warnings or talks or circulars.

Q. Did you fear trouble there the next day?—A. Yes.

Mr. MORGAN. Wait; we object to the question and move to strike the answer, for the reason that the same is a conclusion and opinion of the witness.

Q. What were your duties in reference to handing the voters the ballots and things of that sort?—A. When they came there and called for ballot I just give them a ballot.

Q. You heard the question asked the previous witness on the stand as to whether or not any of you election officials protested against handing these negroes ballots, did you not?—A. Yes; I heard it.

Q. Why didn't you protest against handing them ballots?

Mr. MORGAN. Contestee objects for the reason that same calls for the conclusion of the witness, and for the further reason that it is not the duty of the clerk of any election board to protest against any ballots being cast, that duty being given under the laws of the State of Oklahoma to the inspector in each precinct.

A. I didn't think it was—that I had any right to under the law, and then I was pretty busy most of the time, anyhow.

Q. Did the receipt of these warnings have any effect upon you in that respect?—A. It possibly did.

Q. Do you know how many negroes over the age of 21 years—male negroes—resided and had resided in that township for over a year previous to the last election?

Mr. MORGAN. Objected to for the reason that the question in issue is not the number of negroes who resided in said township, but the question is as—under the pleadings in this contest case—is the number of negroes who voted.

Q. Answer the question—about?—A. No; I could not say just how many.

Q. What is your best judgment of the number?

Mr. MORGAN. The same objection as last heretofore given.

A. That man that polled the township two years ago told me there was 88.

Q. Not what you were told.

Mr. MORGAN. We move to strike that for the reason that the same is not responsive and is hearsay.

Q. What is your best judgment?—A. There is probably somewhere between 55 and 60 I should think.

Q. Do you know the politics of those negroes who voted in Dewey Township at the last general election?

Mr. MORGAN. Comes now the contestee and objects to the question for the reason that the same calls for the conclusion of the witness and his opinion and further reason that the said voters or negroes referred to have not been first called upon the stand and refused to testify regarding their politics.

A. I could not positively say. I know all that I do know I know what their politics is; all that I am personally acquainted with.

Q. What are their politics?

Mr. MORGAN. We move to strike the answer as not responsive to the question.

A. They are Republican.

Q. Do you know of any negro out there who voted the Democratic ticket at the last election?—A. I do not.

Mr. GIDDINGS. You may take the witness.

Cross-examination by Mr. MORGAN:

Q. Mr. Clark, regarding this warning, this circular, Exhibits A and B, those came to you in an envelope, did they, through the United States mail?—A. Yes, sir.

Q. Was there any return card upon that envelope that you remember?—A. I don't remember; I could not say.

Q. Was there anything in the envelope or on the outside thereof which indicated that Dick T. Morgan, the contestee herein, or his campaign committee or Homer N. Boardman had sent this to you?—A. All there was was the name that was on the letter—the circular—is all I know.

Q. Read him the question.

(Question read.)

A. I could not say; there was nothing of Dick T. Morgan's name on there, I am satisfied of that; but I think that Boardman's name was on it.

Q. Mr. Boardman's name was signed down here at the bottom?—A. Yes, sir.

Q. Or printed rather?—A. I think it was.

Q. Homer N. Boardman's return card was not on the outside of the envelope?—A. I could not say; I tried to find that envelope yesterday and I could not find it, and I would not say positively it was or was not.

Q. You saw Mr. Davis testing these negroes, did you?—A. Some of them.

Q. You were in the same room?—A. Yes, sir.

Q. And he was testifying correctly when he said he tested about 40 negroes there?

Mr. GIDDINGS. We object to that as calling for a conclusion of the witness.

Q. Answer the question.—A. I think Mr. Davis did not just understand that question, or else I have got it wrong. I don't think Mr. Davis tested any of the negroes that day that he tested at the primary election; that is that he passed on at the primary election, except a few. That was my judgment; now I would not say positively, but that was my judgment of the way the thing was done.

Q. In other words your remembrance of it is.—A. I was pretty busy, and didn't have much time.

Q. In other words, your remembrance of it is that Mr. Davis passed those without testing whom he had tested in the last primary?—A. That is my judgment. I vouched for some myself, and he didn't test them I know.

Q. Do you know Mr. Y. A. Watson?—A. Yes, sir.

Q. Was he tested?—A. No, sir; I vouched for him.

Q. You vouched for him; you know that he can read and write?—A. I do.

Q. And W. H. Anderson?—A. I didn't for him.

Q. Do you know Mr. Anderson?—A. I know him when I see him.

Q. He is a school-teacher out there?—A. I have heard he was; but I don't know it.

Q. This Mr. Brice, what are his initials?—A. I don't know him at all.

Q. Do you know J. B. Smith?—A. Yes, sir.

Q. Can J. B. Smith read and write?—A. Yes, sir.

Q. You vouched for him?—A. Yes, sir; if you will let me explain this, I can do it so you will understand what I mean. Davis told me anybody that we knew was all right—there was no use in putting them to the test—and he says anybody that you know is all right, and you let me know—they will go. It will hurry things; we want everybody to vote.

Q. Do you remember this man Jones and this man McLain, who came up too late to vote?—A. I remember Jones; I don't know McLain.

Q. Now Morgan and Stafford, with respect to whom Mr. Davis testified, came and took the test, and failed to pass it; and he refused to let them vote; you remember that occurrence?—A. No; I don't.

Q. You don't remember that?—A. No; I was busy.

Q. How many negroes is it you remember voted there during the day?—A. Well, I could not say. Pretty near every time I looked up there was one in front of me; they came thick and fast.

Q. Do you know Aleck Morgan and Joe Ashford?—A. I know Ashford; I know several Morgans, but I don't know all their first names.

Q. How many voted out there on the 5th day of November, 1912?—A. I could not say.

Q. You don't know the total number of votes?—A. The total number of votes—I would not want to swear that I did.

Q. Do you know of any negro who voted there who either was passed because you or some one there knew that he could read and write or who really took the tests and was allowed to vote by Mr. Davis; in other words, do you know of any negro who took the test and who failed and who was allowed to vote?—A. Well, I could not say.

Q. How is that?—A. I would have to explain it to tell you all I know about it.

Mr. GIDDINGS. Go ahead and explain it.

Q. I am asking you—were there any negroes there who voted on that day who can't read and write that you know of, and if so give their names.—A. I know lots of them who can't read their own writing after they write it.

Q. I am asking you; read the question.

(Question read.)

A. I would not; I don't know as I could give their names.

Q. Do you know of any?—A. I didn't know—

Q. You don't know of any?—A. I know there was lots that I would not pass; when I was inspector I didn't pass them.

Q. But all you voted there you either know that they could read and write or they pass some sort of a test that day?—A. I guess so.

Q. That is right, isn't it?—A. I think they did.

Q. Now, on last Wednesday—is this Thursday—a week ago yesterday were you at Fobert's store out there in Dewey Township in the morning?—A. Mr. Fobert's?

Q. No, Mr. Delaporte's store?—A. Yes, sir; some day I was there; I was probably there that day; I was there one day; I saw you there.

Q. And didn't you tell Bill McCutchen that there was nobody out there voted except who was qualified to vote?—A. No, sir; I didn't.

Q. You talk about this election with him, didn't you?—A. No, sir; I did not.

Q. I think that is true.—A. Bill McCutchen has been in the habit of trying to hoodoo me; came down and was going to take me out of the schoolhouse when I was inspector there.

Mr. MORGAN. We move to strike the voluntary statement of the witness as not being responsive to any question asked or explanatory to any question asked.

Q. Did they have some sort of table over there where Mr. Davis tested these negroes?—A. I think on the desks; it was in the schoolhouse.

Q. Now, you noticed negroes over there writing and trying to copy the Constitution, didn't you?—A. Yes, sir.

Q. And copying it and handing in their papers to Mr. Davis?—A. Yes, sir.

Q. And he passing on them?—A. When I had time to notice anything I did.

Q. What was the usual custom there; would he tell you to let so-and-so vote or what?—A. The custom was that they came in there—I was about probably 20 feet from where he was, 25 maybe, and he was near the door and I was in the back end of the schoolhouse—and they would come in and set down at the table or desk and when he got—we were trying to keep the things going so they would all vote and when they all got a ballot I could see they would let some in from the outside and keep them voting right along, and I was pretty busy and I don't know what they were doing all the time.

Q. When a negro came to you for a ballot, Mr. Davis would tell you they had passed the tests?—A. When they came up there he didn't tell me nothing. I gave them a ballot. I supposed when they came there they was all right.

Q. You testified you didn't know of any negro voting the Democratic ticket; do you know of any negro who voted the Republican ticket for certain?—A. Nothing only what they tell me themselves.

Mr. MORGAN. I think that is all.

Re-direct examination by Mr. GIDDINGS:

Q. Who is Bill McCutchen?—A. He is a druggist at Luther.

Q. Active in Republican politics out there?—A. Yes, sir.

Q. How long has he been active out there?—A. Ever since I knew him.

Q. Trying at times to intimidate the election officials from enforcement of the grandfather clause?

Mr. MORGAN. We object to it as incompetent, irrelevant, immaterial, and for the further reason that there is no statements or allegations contained in the contestant's notice of contest regarding the said Bill McCutchen or his activities in regard to the alleged enforcement of the grandfather clause.

Q. Answer the question.—A. What is the question?

Q. Read it.

(Question read).

A. He did me.

Mr. MORGAN. We move to strike that for the reason that the time and place is not shown and it not being shown that the alleged intimidation occurred at the last election held on November 5, 1912.

Q. Was he a candidate out there at that time?—A. No, sir.

Mr. GIDDINGS. That is all.

Recross-examination by Mr. MORGAN:

Q. Mr. Clark, as a matter of fact, last Wednesday morning you and McCutchen didn't talk about politics at all?—A. No, sir.

Mr. MORGAN. That is all.

Mr. GIDDINGS. Then do you know why you were asked about your having done so?—A. No.

Q. Mr. Morgan knew that you hadn't talked politics out there?—A. I could not tell whether he knew it or not.

Mr. GIDDINGS. That is all.

Whereupon, by consent of parties, further hearing of this case adjourned until 2 p. m.

February 6, 1913, 2 p. m., hearing resumed.

LOUIS VOREL, called to the stand, testified as follows, to wit:

Direct examination by Mr. DORTCH:

Q. State your name.—A. Louis Vorel.

Mr. MORGAN. Comes now the contestee and objects to the taking of further testimony unless the same shall be written out in the presence of the officer taking the same in the presence of the parties or their agents.

Q. Where do you live, Mr. Vorel?—A. In Luther Township.

Q. Oklahoma County?—A. Yes, sir.

Q. State of Oklahoma?—A. Yes, sir.

Q. How long have you lived there?—A. About 17 years, or a little over 17 years.

Q. How old are you, Mr. Vorel?—A. Sixty years old.

Q. Are you married?—A. Yes, sir.

Q. Do you have any children?—A. Yes, sir.

Q. Did you live in Luther Township in November, 1912?—A. Yes, sir.

Q. What official position, if any, did you hold during the election of 1912?—

A. Why, I was inspector.

Mr. MORGAN. Wait a minute. Comes now the contestee and objects to the further taking of testimony unless the same, together with the questions propounded by the parties or their agents be reduced to writing in the presence of the witness and in the presence of the agents or attorneys of the parties and duly attested by the witness at the time.

Mr. DORTCH. I will have to send for a typewriter.

And thereupon the succeeding testimony was taken on the typewriter direct, as follows, to wit:

Q. Inspector where?—A. Inspector of elections of Luther Township, Oklahoma County.

Q. Who were the other election officials of that precinct?—A. Mr. Glen Moore and Will Arthur.

Q. Approximately state how many negroes there are in your precinct, male, over the age of 21 years, if you know?

Mr. MORGAN. Contestee objects to the question for the reason that the same is incompetent, irrelevant, and immaterial.

A. Well, the way I have of knowing is from the way they turn out at elections, and there is about two-thirds negroes in our township; of voters we have right near 120 negroes and sixty odd whites.

Q. How many of these negroes presented themselves in November, 1912, at the election to vote, if you know?—A. Why, I think right near the number I have stated, 120, as near as I remember it.

Q. I will hand you contestants Exhibits A and B and ask if you have ever seen similar ones?

Mr. MORGAN. The contestee objects to the question for the reason that the same is incompetent, irrelevant, and immaterial; it not having been shown that this contestee wrote either personally or by any of his agents said exhibits or had said exhibit sent—any exhibit or similar paper to the witness, and for the further reason that the said exhibit has not been shown to have been written by Homer H. Boardman or by anyone by his authority.

A. This first one was handed to us on the grounds by a party—

Mr. MORGAN. Comes now the contestee and moves to strike the answer for the reason that it is not shown that this contestee or anyone for him or by his authority handed said witness a paper similar to Exhibit A.

Q. Do you know who handed you this?—A. Yes, sir.

Q. Who was it?—A. Thomas McNeal.

Q. Who was he?—A. He is a farmer living around there.

Q. What was his politics?—A. A Republican.

Mr. MORGAN. Wait. Comes now the contestee and objects to the question and moves to strike the question and answer from the records for the reason that the same is incompetent, irrelevant, and immaterial.

Q. Was he or not on that day working for the interests of the Republican candidates?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Did he represent himself to be working in the interest of any particular Republican candidate?

Mr. MORGAN. Contestee objects to the question for the reason that the same is incompetent, irrelevant, and immaterial and an attempt to prove agency by the testimony of the agent, and as being hearsay.

A. No; I believe he was just working for general results.

Q. I will rehand you contestants Exhibit B and ask you have you ever seen a similar circular?

Mr. MORGAN. Contestee objects to the question for the reason that the same is incompetent, irrelevant, and immaterial, and for the reason that it has not been shown that the circular or exhibit handed to the witness, being contestant's Exhibit B was composed by, printed by, or sent out by the contestee or by anyone acting for him or under his authority; and the contestee at this time moves to strike from the record all of the testimony of the witness regarding the handing of Exhibit A to him by Tom McNeill, for the reason that the witness has not testified and it has not been shown that the said McNeill was the agent of or acting under the authority of this contestee.

A. Why, I didn't receive this—it was after the election—in the mail.

Q. When McNeill handed you circular marked headed, "Talk it over with your wife," did you read this circular?—A. Yes, sir.

Mr. MORGAN. Contestee objects to the question and moves to strike the question and answer for reason same is incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. What effect, if any, did it have upon you?

Mr. MORGAN. Contestee objects to question for reason the same calls for an opinion and a conclusion of witness, and as being incompetent, irrelevant, and immaterial.

Q. I mean in the performance of your official duties?

Mr. MORGAN. Same objection as to the last question.

A. Well, I didn't like to take the responsibility on the face of that and we handled the election in a different way from what we would have if that hadn't come up.

Mr. MORGAN. Contestee moves to strike the answer as not responsive to the question.

Q. In what way did you handle it different?

Mr. MORGAN. Objected to as being incompetent, irrelevant, and immaterial.

A. We let 14 or 15 negro voters cast their ballots on their own responsibility that we would have denied, they claiming and not being able to read and write.

Q. How many negroes, if you remember, did you give the tests to that day?—

A. Well, not very many; not over 10 or 15, outside of these. We had been acquainted with those parties and they had been refused ballots at previous elections two years before.

Q. You knew then from previous acquaintance that they could not take the tests?—A. Yes, sir.

Mr. MORGAN. Comes now contestee and moves to strike the question and answer for the reason that the so-called grandfather clause requires a test.

Q. They had been tested had they at a previous election?—A. Yes, sir; and also at this one.

Q. What was the results of the previous tests?—A. Well, on the question whether they could read and write, some of them said they couldn't, and them that claimed they could we tested and the others found out they couldn't by actual test.

Q. These 14 or 15 that you speak of, did they cast ballots in November, 1912, election?—A. Yes, sir.

Q. What did you do with the stubs from your ballot books?—A. Well, we fixed them up like they always give them to us as nearly as we could, sealed them, locked them up, and turned them over to the county election board.

Q. Can you tell what the result of the election would have been in that precinct had these negroes you speak of not been allowed to vote?

Mr. MORGAN. Contestee objects to question for reason that same is incompetent, irrelevant, and immaterial, and as calling for conclusion of the witness.

A. I believe so.

Q. What did you do with the returns from that election?—A. We turned them over to the county election board—part of them unsigned, that is by me, by the inspector.

Q. Did you refuse to sign part of them?—A. Yes, sir.

Q. What was the reason of your refusal?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. I thought they was illegal.

Q. Referring back, Mr. Vorel, to contestant's Exhibit A, I will ask you about how many of these circulars you saw that day.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, not having been shown that Exhibit A or circulars similar thereto were composed by, sent out by, or mailed by the contestee, or by anyone for him, as his agent or in his behalf.

A. I think it was only that one.

Mr. DORTCH. That is all.

By Mr. MORGAN:

Q. Now, Mr. Vorel, you claim that there were how many negroes voted who were not qualified to vote?—A. Fourteen or fifteen.

Q. Did you apply the tests to these 14 or 15 negroes?—A. I asked every one of them questions could they read or write, and they answered me in the negative.

Q. Now, what are the names of those 14 or 15 negroes, and where do they live?—A. I could name two only, but the clerk has a list of them.

Q. What are the names and addresses of those two?—A. The address is Luther in both cases, and Greenhoward is one of them, and the other is Franklin. He lives in Luther.

Q. Now, where does Greenhoward live from Luther?—A. He lives about 1 mile north and 2 miles east.

Q. What are Greenhoward's initials?—A. I believe you have got me there, but I believe it is W. G. or G. W. I would not be positive.

Q. What are Franklin's initials?—A. I don't know.

Q. What does he do?—A. He is an old pensioner—an old soldier—and doesn't do nothing that I know of.

Q. Mr. Vorel, take a little time and see if you can remember the names of the remainder of these 14 or 15 negroes.—A. That would be a task for me. I could go to the records, or the returns, and Mr. Moore, the clerk of the election he has the names—put them down—thought something might come up and he took a record of them.

Q. You say you tested and gave the tests prescribed by the grandfather clause to 10 or 15 negroes; is that right?—A. Outside of these 15 already mentioned; yes.

Q. Now, how did these 10 or 15 come out on their tests?—A. Very near all qualified.

Q. How many did qualify?—A. Well, sir, I don't know. I am ready to say that all of them.

Q. Now, there were 10 to whom you gave the tests there and they qualified, or 15 was it?—A. Yes, sir.

Q. And then there were, you say, 120 negroes voted?—A. About that many; yes, sir.

Q. So there were 90 that voted without any tests who were qualified?—A. I think so; yes; as nearly as I remember. People that had been recommended in previous elections and voted, and some that we knew personally.

Q. So to get at the number of qualified voters in the precinct you would merely deduct the 14 or 15 whom you say were not qualified, that would give the result of the vote as between the candidates, if these had not voted?—A. Under the system that we have been working under, being hampered every election with the fear of Federal law—

Q. Now, wait just a minute—contestee moves to strike that part of the witness's answer—that is, all of it—for the reason that the same is not responsive. Please read the question to the witness.

Mr. DORTCH. Now, contestant insists that the witness answer the question in his own way, and then if immaterial that motion to strike be made. Go ahead.

A. State my last answer.

(Question and answer read.)

A. Well, under that it isn't hardly a fair test; there would be a great deal less number of voters if a real test could be gotten.

Mr. MORGAN. Comes now the contestee and moves to strike the last answer of the witness for reason same is not responsive, and the contestee will ask the stenographer to reread the last question to the witness, and the contestee asks the witness to answer the question.

Mr. DORTCH. The contestant protests against the putting of a question, and then because he is not satisfied with the answer asks that the same be stricken.

(Question read.)

A. Under the present system that would be all we could do.

Q. Now, Mr. Vorel, notwithstanding the fact that a paper similar to that heretofore in evidence as contestant's Exhibit A, you went ahead and tested 10 or 15 negroes in accordance with the grandfather clause; is that right?—A. Yes, sir.

Q. And these 90 negroes whom you didn't test, you didn't test them because you say you knew from previous experience or from your information of them that they could pass the test?—A. They had been voters before.

Q. That is right, is it not?—A. Yes.

Q. Do you know Frank Mayer—negro?—A. I don't think I do. I know them, but I don't know their names very much.

Q. Do you know whether he voted that day or not?—A. No; I do not.

Q. Do you know Emanuel Moore?—A. Yes.

Q. Where does he live?—A. That is the fellow that takes the pension from county aid, they presented him and tried to get him voted, of course we could not stand that, that was too much.

Q. Then you turned him down, did you?—A. Yes, sir; him being a pauper.

Q. Pauper.—A. Yes, sir.

Q. Do you know Will Davis?—A. Will Davis? Well perhaps I do, you won't get much out of me on those names, I am hard at remembering the names on those parties, I haven't been clerk of the elections, and I can't answer to the names. I don't remember their names.

Q. So you don't know Will Davis?—A. No; I will have to say no.

Q. Do you know Tom Franklin?—A. Yes.

Q. Where does he live?—A. He lives in Luther; it is the Franklin we were speaking of.

Q. He lives in Luther?—A. Yes, sir.

Q. You say you let him vote?—A. Yes, sir.

Q. How did it come that he living in Luther city you allowed him to vote in Luther Township?—A. He doesn't live in the incorporated part of town; he lives outside of the city limits and votes in the township.

Q. He was turned down, you say—Tom Franklin?—A. We asked him if he could qualify, and he said no, but he insisted on voting, and he did vote.

Q. Do you know A. Garret?—A. What is he, a white man?

Q. A negro.—A. If you want to save time I told you not to ask me the names, because I don't know many by names.

Q. Do you know Martin Benjamin?—A. Yes, sir.

Q. Did he vote?—A. Yes, sir; he was one of the 14 or 15.

Q. Did you know that he could not qualify under the tests?—A. Yes; most assuredly; he told us he couldn't.

Q. And he voted?—A. Yes, sir.

Q. Now, did you not talk with J. M. Morgan, a merchant at Luther, either the day after, or second day after, the election about the manner of conducting the election out here in Luther Township?

MR. DORTCH. We object to that as incompetent, irrelevant, and immaterial.

A. I suppose I have; yes, we had several talks, and several days following.

Q. Is it not a fact that on one occasion you told Mr. Morgan that not to exceed five negroes had voted in Luther Township who were not qualified to vote?

MR. DORTCH. Objected to as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven.

A. Mr. Morgan certainly misunderstood me; I never made no such statement.

Q. Now, as a matter of fact, Mr. Vorel, did you not write on the ballots of all negroes whom you considered did not have a right to vote under the grandfather clause the word protested, and did you not have those ballots strung on a special string by themselves?—A. Yes, sir; I think so; I think that is the way they were fixed.

Q. And as a matter of fact, did you not instruct the counters in Luther Township not to count those votes or those ballots upon which you had written the word protested?—A. No, sir. I had no authority to instruct the counters.

Q. I will ask you, Mr. Vorel, if it is not true that the ballots which were written on by you were protested?—A. By the clerk, if you please.

Q. Wait a minute.—A. I don't consider that a fair question; I didn't sign any of them protested.

Q. You can just say no.—A. No, I won't answer that at all; that ain't a fair question.

Q. I will ask you, Mr. Vorel, if it is not true that the ballots which were written on by you protested were in fact not counted by the counters of Luther Township in making up the returns from Luther Township upon the State ticket or the ticket upon which the names John J. Carney and Dick T. Morgan appeared?

MR. DORTCH. Objected to as incompetent, irrelevant, and immaterial; assuming a state of facts not proven.

A. They were all counted, sir, and all returned: with the protest only, that is not signed by me.

Q. You have never signed the State returns have you from Luther Township?—A. I signed the county and township returns, but never the State. I said I would under circumstances if I had to.

Q. Now, Mr. Vorel, these ballots which were strung on a separate string and which were marked protested, those negroes were tested by you or were they not?

Mr. DORTCH. Objected to as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven.

A. Yes, sir.

Q. Were they tested or were they not?—A. They were tested.

Q. And found by you not qualified to vote?—A. On their own say so; they said they could not read or write.

Q. Did you test them?—A. I had no occasion after they told me they could; I couldn't get them to read or write when they said they couldn't.

Q. No one came to you on election day and threatened to have you prosecuted if you didn't let these negroes vote?—A. Why I don't know what you would call threatening; it was mentioned when that card was handed that we were going up against United States laws and that we were liable to land in the penitentiary.

Q. Did anyone threaten you with personal violence?—A. No, sir.

Q. Everything was orderly about the polls election day?—A. Yes, sir; except a little fuss outside of the doors crowding in.

Mr. MORGAN. That is all.

By Mr. DORTCH :

Q. This Tom Franklin that was spoken of, do you know whether or not he could stand the test under what is known as grandfather clause?

Mr. MORGAN. Contestee objects to question; withdrawn.

A. On his own say so he could not.

Q. He voted that day, did he?—A. Yes, sir.

Q. Do you know of what political faith he is?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and the question calling for an answer which would be hearsay.

A. Why do you call them rock-ribbed or stalwart—he is a Republican.

Mr. MORGAN. Contestee moves to strike answer as not responsive to question and incompetent.

Q. This Martin Benjamin, who was spoken of; do you know whether or not he could stand the test under the grandfather clause?—A. Not on his own say so; he could not, he told me at different times he could not read or write.

Q. Did he vote the State and Federal ballots in November, 1912?—A. Yes, sir.

Q. Do you know his political faith?—A. Yes, sir.

Mr. MORGAN. We object to that question for reason same is incompetent, irrelevant, and immaterial; the party concerning whom the witness is called upon to testify not having appeared and refused to tell of his political faith.

A. Why he voted the Republican ticket.

Mr. MORGAN. Contestee moves to strike for the reasons given in the objections to the question, and we move to strike the statement of the witness that the party voted the Republican ticket because from the very nature of the system of voting in this State the witness could not possibly know how the voter voted—

A. Only what he called for—

Mr. MORGAN. In the election held in November, 1912.

Q. Do you know the political faith of any of the rest of these 14 or 15 negroes whom you have testified to who could not stand the tests, yet voted the State and Federal ticket in November election, 1912?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial and for the further reason that the 14 or 15 persons referred to have not been called to testify and refused to tell their political faith or how they voted in the November, 1912, election.

A. Yes, sir.

Q. What was the faith of those that you know?

Mr. MORGAN. Same objection as to the last question.

A. Republicans.

Q. What ballot did they call for on that day?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial

A. Republican.

Q. Did any of these 14 or 15 negroes, when they presented themselves, make any statements in regard to political subjects that day?

Mr. MORGAN. Objected to for reason same is incompetent, irrelevant, and immaterial, and—that is all.

A. Why they made statements in so far as—they made statements that they would vote, they had a right and insisted upon voting.

By Mr. MORGAN:

Q. With regard to these 14 or 15 who insisted on voting, that was confined wholly to these 14 or 15 negroes whom you say can not read or write?—A. Yes, sir.

Mr. MORGAN. That is all.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

You do solemnly swear that you will well and truly take down in shorthand the testimony of the witnesses in this cause and that you will well, truly, and correctly transcribe from shorthand to longhand according to law each and every question and each and every answer of every witness, so help you God.

Mr. MORGAN. Put in the objections of the parties and the attorneys.

Mr. GIDDINGS. That is all right. And all proceedings.

J. M. HARKIN.

Subscribed and sworn to before me this 6th day of February, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

And thereupon the reporter was by the notary public sworn as per oath hereto attached, and the further proceedings were taken in shorthand as follows, to wit:

Mr. MORGAN. To which the contestee objects and the contestee hereby objects to the taking of any testimony in shorthand and objects to any testimony being taken other than in the following manner: That the testimony of the witnesses, together with the questions propounded by the parties or their agents, be reduced to writing in the presence of the notary public, Mary S. Hill, and in the presence of the parties or their agents attending at this time, and duly attested by the witnesses, respectively.

By Mr. GIDDINGS:

Q. Do you know in a general way the politics of those negroes who voted in your township?

Mr. MORGAN. Objected to, and we move to strike for the reason that the same is incompetent, irrelevant, and immaterial.

Q. What were their politics?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. Republicans.

Mr. MORGAN. And as not the best evidence, and we move to strike for the same reason.

Q. Can you state if any negro in that precinct voted the Democratic ticket at the last general election?

Mr. MORGAN. Wait a minute; that is objected to as incompetent, irrelevant, and immaterial, and not being the best evidence.

A. Every negro that called for a ballot called for a Republican ballot for the State and county ticket.

Q. And also the national ticket?—A. Yes, sir.

Mr. GIDDINGS. That is all.

Mr. MORGAN. That is all.

LOUIS VOREL.

Subscribed and sworn to before me this 5th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. B. B. MOORE, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. Moore, B. B.

Q. Where do you reside?—A. Luther, Oklahoma County.

Q. How long have you resided there?—A. About 18 years.

Q. Where did you vote at the last general election?—A. In Luther Township.

Q. Did you hold any official position at the election held in the State of Oklahoma on the 5th of November, 1912?—A. I did.

Q. What position?—A. Clerk.

Q. Previous to the election of November, 1912, did you see or receive a similar printed communication to Exhibits A and B here handed you?

Mr. MORGAN. Objected to for the reason, the same is incompetent, irrelevant, and immaterial, and for the further reason there is nothing shown or attempted to be shown that the circulars similar to those marked "Exhibit A" and "Exhibit B" of the contestant were sent or caused to be sent by the contestee herein or by anyone for him or on his behalf or as his agents.

A. I saw circulars similar to Exhibit A but not Exhibit B.

Q. That is you did not see the letter?—A. No, sir.

Q. Of the district attorney?—A. Just see—

Q. Do you know what effect, if any, the receipt of that Exhibit A had upon the election officials of your township as to the enforcement of the law commonly known as the grandfather clause?

Mr. MORGAN. Objected to as incompetent, irrelevant, immaterial, and as calling for a conclusion of the witness.

A. We let people vote that we would not otherwise have done if it hadn't been for that warning.

Q. For what reason?—A. Well, we thought we would get in trouble with the Federal law if we did not.

Q. How many negroes over the age of 21, male negroes, then and there resided and had so resided for over one year previous to the last general election, if you approximate?—A. About 130, 120 or 130.

Q. Did you serve at the last general election in the capacity of clerk?—A. Yes, sir.

Q. What was the mood and conduct of these negroes at the polls that day? Sullen, or was it the same as usual?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. It was about the same as usual.

Q. Was there sullenness exhibited there that day upon their part or any—

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. Only in one case.

Q. What was that case?—A. A fellow who would not take the tests and who would not say he could neither read nor write, and we would not let him vote until he did. He said he would give us trouble about it.

Q. Did the negroes at the polls that day seem to know about this circular?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. I could not say whether they did or not.

Q. Could you state what would have been the result in that township without this vote, or would it have been so that the results could not have been ascertained in the township without that vote—as to whether it would have been any different without that vote?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for the conclusion of the witness and his opinion.

A. Well, the result would have been somewhat different if those 10 or 15 had not voted, in my opinion.

Q. Do you know the politics of those negroes?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, not proper foundation having been shown by calling the persons to take their testimony and they having refused to give their politics.

A. Republican.

Q. Do you know of any negro out there who voted the Democratic ticket that day?—A. I do not.

Q. Did you ever serve at previous elections in that township as election official?—A. Yes, sir.

Q. When?—A. The election before, 1910.

Q. Do you know of any negroes out there who voted without taking the tests?—A. Yes, sir.

Q. If it hadn't been for this circular letter would you have required the tests from them?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial and not being the duty under the laws of the State of Oklahoma for the witness, who was a clerk of the election board, to test those suspected of not being able to pass the tests under the so-called grandfather clause.

Q. If it hadn't been for the circular letter you have described, would the tests have been required in your township?

Mr. MORGAN. Objected to for the reason the same is incompetent, irrelevant, and immaterial and the witness having testified that he saw no circular letter.

A. I think I would.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Moore, where was the election held out there; in the schoolhouse?—A. Yes, sir.

Q. Out northwest of Luther?—A. Yes, sir.

Q. Now, 14 or 15 negroes voted who did not have a right to vote under the grandfather clause?—A. Yes, sir.

Q. That is your idea about it?—A. Yes, sir.

Q. Now, do you know how many negroes voted there that day?—A. I think there was about 120, possibly more.

Q. One hundred and twenty?—A. About that many, maybe more.

Q. So to get at the result of the election as turned in to the county election board where these 15 negroes voted without taking testimony or without qualifying, you would merely take the 15 from the total number of votes cast there in order to get at the true result of the vote, would you not?—A. I don't exactly understand what you mean by that.

Q. I say, in order to get at the result of the votes as it would have been had these 15 negroes who were not qualified to vote under the grandfather clause you would merely take the 15 from the total Republican vote in that precinct?—A. Certainly.

Q. That would give you the true Republican vote there. How many negroes were tested by Mr. Vorel out there that day?—A. I could not say.

Q. You didn't watch him?—A. No.

Q. Now, leaving out of consideration these 15—14 or 15—the remainder of the negroes who voted there that day were either qualified to vote under the grandfather tests by reason of common knowledge, knowing that they could read and write or they were tested, were they not?—A. Yes, sir.

Q. So that at most there would not be more than 15 votes cast there who were not qualified to vote under the grandfather clause?—A. Not to my knowledge there wasn't.

Q. Do you know this Mr. Green Howard?—A. Yes, sir.

Q. Did he vote?—A. Yes, sir.

Q. Can he read and write?—A. I think not.

Q. You are not sure about that?—A. No; I am not sure of all of those 14 or 15. I know a few of them—not many. I have a list of the names, but—

Q. Now, Tom Franklin, do you know him?—A. Yes, sir.

Q. Where does he live?—A. Near Luther, in Luther Township.

Q. Can he read and write?—A. No, sir.

Q. What occasion did you ever have to know whether he could read and write?—A. Well, I saw him around town considerable, and he passed with some sort of petition around town for us boys to sign, and I asked him why he could not sign his name to it, and he said he could not read and could not write and could not sign his name.

Q. Do you know Frank Mayer?—A. Yes, sir.

Q. Where does he live?—A. Well, he lives—I think he lives northeast of Luther, if I am not mistaken.

Q. Can he read and write?—A. I consider he could not.

Q. Did he vote that day?—A. Yes, sir; I think he did.

Q. Do you know Emanuel Moore?—A. Yes, sir.

Q. Can he read and write?—A. He said he could not.

Q. Did he vote?—A. Yes, sir.

Q. Will Davis, do you know him?—A. Yes; I know Will Davis there.

Q. Where does he live?—A. He lives north and west of Luther, I think about 3 miles.

Q. How far west, and how far north?—A. Well, he did live 1 mile west and 2 miles north of Luther. As to whether he lives there now or not I don't know.

Q. Do you know A. Garrett?—A. Yes, sir.

Q. Where does he live?—A. Well, he lives half a mile from Luther, southwest, very nearly a mile.

Q. He is a negro?—A. Yes, sir.

Q. Can he read and write?—A. No, sir.

Q. How do you know?—A. He said that he could not.

Q. Can you give me the names of any more negroes there who voted who can't read and write?—A. No; I can't.

Q. You can't remember the names?—A. I can't remember the names.

Q. Do you remember their faces, or where they lived or anything about that?—A. Yes; I know them when I see them.

Q. You know them when you see them; now describe 2 or 3 of them?—A. They are very nearly all of them black.

Q. What distinguishing characteristics do they have that enables you to distinguish one from the other?—A. Just black—just when I see them is the only way I can tell them apart.

Q. How do you tell them; you say they are all black, and that you can tell them apart; how do you tell them apart?—A. Well, I don't know. I know one from another one, and that is about all there is to it.

Q. How do you know one from the other?—A. Size and build.

Q. What I am trying to get at here is, you say there were 14 or 15 of them; now we have got about 5 of them. I would like to get at the identity of the other 10.—A. Don't you know the other 10 the same as you do them 5?

Q. I am not on the witness stand, and don't know them.—A. If you asked me the question I could probably recall them, but I can't recall them now.

Q. I am asking you for names.—A. I can not recall the names, and that is all there is to it.

Q. Now you are certain, though, that these other 10 did vote, or 9?—A. Yes, sir.

Q. Now you say they said they could not vote?—A. They said they could not neither read or write.

Q. Now, how far were you from where Mr. Vorel was stationed during election day, there in the schoolhouse?—A. Probably 10 to 15 feet.

Q. You watched him all the time, did you?—A. Whenever I had time to.

Q. Do you know Martin Benjamin?—A. Yes, sir.

Q. And the old man—his boys can read and write, can they not?—A. Yes; one of these Benjamins is the fellow we had the squabble with.

Q. You didn't receive any papers similar to Exhibit A and B, of contestant's, through the mail, did you?—A. No, sir.

Q. You did not; and Exhibit B was all that you saw there during the day?—A. Yes, sir.

Q. Where did you see that?—A. It was handed to us in the room.

Q. Who handed it to you?—A. A fellow by the name of Tom McNeal.

Q. Lives out west of town?—A. Yes.

Q. About a mile; now did he say—did he use any threatening words when he handed it to you? What did he say when he handed it to you?—A. He said there is a piece of paper it might pay us fellows to read. We took it and read it.

Q. Now, on that paper that was handed to you, was the name Dick T. Morgan on there?—A. No, sir; I didn't see it.

Q. Did you see the envelope—was it in an envelope when it was handed to you?—A. No, sir; it was not.

Q. Did Tom McNeal say Dick T. Morgan sent this to you?—A. He did not.

Q. Did he say he sent it to him?—A. No, sir.

Q. Did he say where he got it?—A. No, sir.

Q. Mr. Vorel was correct when he testified that Mr. McNeal was just working in the general interest of the Republican Party.

Mr. GIDDINGS. Objected to as calling for a conclusion of the witness, incompetent, irrelevant, and immaterial.

A. Well, I think he was. He was a Republican and I think he was working for the Republicans.

Q. You were not threatened with any physical violence there that day, were you?—A. Not particularly; no.

Q. And you can't think of the names or addresses of any of these negroes who voted who could not qualify?—A. No, sir.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. Lots of these negroes would have been qualified if it had not been for this circular on voting, wouldn't they—I say there were lots of negroes there who voted who would not have voted if you could have applied to them the qualification test?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven, the witness having already testified that

all the negroes, excepting these 15, were known to be able to read and write to the election officials to that Luther Township or were actually tested.

A. With the exception of these 15 negroes the rest of them were passed all right. They passed the test we put to them.

Q. Was the test as it would have been had it not been for this circular?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion and opinion of the witness.

A. I think so.

Q. When these negroes appeared there to vote, did any of them ask in particular for a ballot to vote for any particular candidate.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. They did.

Q. For whom?—A. They asked me to give them a ballot. Said they wanted to vote for Dick T. Morgan. I told them I didn't have any special Dick T. Morgan ballots, but I could give them a national ballot and they could vote it for whoever they pleased.

Mr. GIDDINGS. That is all.

Recross examination by Mr. MORGAN:

Q. Now give me the names of those who made that assertion to you.—A. Well, sir; I am not sure, but I think one of them was this Emanuel Moore—I am certain of him—and the other two I don't know. I think there were three of them, but the other two I disremember their names.

Q. Now those other two, were they Mayer or Davis or old man Benjamin?—

A. I could not say which one of the other two—what the other two—what the other two names was at all.

Q. It wasn't Tom Franklin?—A. I don't know whether it was Tom or not. It was just about like Tom, but I don't think it was. It might have been Tom Franklin, but I am not sure.

Q. How long have you lived in Luther Township?—A. About 18 years.

Q. What business are you in out there?—A. Farming.

Q. Yet you don't know and can not give the names of any of the other negroes there whom you say can not read or write and who voted—the other 10?—A. Well, no; I can't. I have a list of them, but I can't name them all, that is all.

Q. Now, Mr. Moore, I will ask you if it is not a fact that the ballots of those whom Mr. Vorel considered unable to pass the tests, but who voted, were marked by him protested and strung on a separate string and returned that way to the county election board?—A. Not by him.

Q. Read him the question. Who marked those ballots protested?—A. I did.

Q. What did you do—just write on the ballot somewhere protested?—A. Yes, sir.

Q. And you strung those on a separate string, did you?—A. I did not.

Q. Who did that?—A. The counters, I suppose; I don't know that they were strung on a separate string.

Q. When did you begin counting out there?—A. I think we begun about 10 o'clock or something like that.

Q. How far were you from the counters?—A. We were just as far—let's see, we were about 40 feet, I think, or 50. We were as far as we could get away from the counters in the room.

Q. Isn't it a fact, Mr. Moore, that these ballots of these negroes who were marked on there by you protested—Isn't it a fact that those ballots were not counted in making up the general result of the counters?—A. No, sir; I don't think it is a fact that they were not counted.

Q. They were counted?—A. Yes, sir.

Q. And yet you were 40 feet away from the counters while they were doing their work?—A. Yes, sir.

Q. You, then, really don't know whether or not they were counted or not?—A. Well, I don't—I don't know how they done that. The only way I would know about that is the way my stubs tallied out with the number of ballots I passed out.

Q. You compared those, did you?—A. Yes, sir.

Q. You had a number of mutilated ballots, didn't you?—A. I think they only had one.

Q. One?—A. One, I think, if I am not mistaken.

Q. As a matter of fact, didn't they have between—and 15 mutilated ballots, where the parties had attempted to vote for the Republican ticket generally

and they were thrown out because of errors in marking?—A. Well, sir, I could not say.

Q. Who was it passed upon these mutilated ballots that you had?—A. The counters, I suppose; I didn't.

Q. You did not—you don't know anything about the mutilated ballots, then, that were thrown out altogether?—A. No, sir; I don't know as any were thrown out.

Mr. MORGAN. That is all.

Mr. GIDDINGS. That is all.

B. B. MOORE.

Subscribed and sworn to before me this 5th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. T. H. RAY, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. T. H. Ray.

Q. Where do you live?—A. Luther.

Q. How long have you lived at Luther, Okla.?—A. About 13 years—14 years.

Q. Did you occupy any official position at the last general election?—A. I have been inspector there for several years.

Q. How many negroes voted in that township last general election?—A. Five or six, I think.

Q. Did you receive any circulars, through the mail or otherwise?—A. Yes.

Q. Look at Exhibits A and B, and I will ask you if you received those circulars?—A. Yes, sir; I received these circulars.

Mr. MORGAN. Wait: we object to that, and move to strike the question and the answer for the reason that the same is incompetent, irrelevant, and immaterial; and, further, it is not shown, or attempted to be shown, that this contestee, Dick T. Morgan, sent the circulars similar to Exhibits A and B of the contestant to the witness, or that if so done it was so done with the consent, connivance, or approbation of or by this contestee.

Q. Do you know the political faith of those negroes who voted there?—A. Yes, sir.

Q. What were they?—A. Republicans.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and we move to strike for the same reason, and for the further reason that it is not the best evidence.

Q. Do you know of any negro out there who voted the Democratic ticket the last election?—A. None.

Q. Did you receive any other threats, or things of that sort, other than these circulars?—A. No; not to my recollection.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Ray—A. Just a minute in regard to that last question. I did, through the mail; there were a few people who talked to me about them, and said you want to be a little careful how you enforce the grandfather clause, and things of that sort. But, then, it hadn't any particular effect on me.

Q. Mr. Ray, you say there were only five or six negroes who voted?—A. Yes, sir.

Q. Can you name those to me.—A. I can name most of them, I think.

Q. Proceed.—A. Jule Thomas was one, W. A. Key, and one named Williams; I don't remember his initials.

Q. Doc Williams?—A. Yes; I think they called him Doc. And then there is a young negro school-teacher; I don't remember his name.

Q. Who else?—A. I don't believe I recollect who the others were.

Q. Do you know all these gentlemen?—A. Yes; I know them all.

Q. Can they all read and write?—A. I know who they are all, but I don't just recall their names; sometimes they move back and forth across the street.

Q. Those that voted could all read and write?—A. Yes, sir.

Q. You knew of your own knowledge that they could read and write without testing?—A. There was one of them tested—Jule Thomas.

Q. Jule Thomas was tested?—A. Yes, sir.

Q. The balance you know can read and write?—A. Yes.

Mr. MORGAN. That is all.
Mr. GIDDINGS. That is all.

T. H. RAY.

Subscribed and sworn to before me this 22d day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. H. E. NORMAN, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. H. E. Norman.

Q. Where do you reside?—A. In Luther, Okla.

Q. That is in Oklahoma County, isn't it?—A. Oklahoma County; yes, sir.

Q. How long have you resided there?—A. Nearly nine years.

Q. Did you occupy any official position at the last general election held within the State of Oklahoma on the 5th of November, 1912?—A. Yes, sir; I was clerk of the election board of Luther town precinct.

Q. Did you see or receive through the mail the Exhibits A and B I hand you here?—A. Yes, sir.

Mr. MORGAN. Objected to.

A. I received something similar to that.

Mr. MORGAN. We object to the question and move to strike the answer for the reason it is not shown that the contestee herein, Dick T. Morgan, sent, had printed, or composed said Exhibits A and B, or that anyone by or anyone for him, or as his agent, had said exhibits printed or circulated in any manner whatsoever.

Q. Were they anything different from those that I have shown you, Exhibits A and B, from the circulars you received?—A. They appear to be the same.

Q. How did you receive them?—A. Through the mail.

Q. Had you been previous to that time an official of any of the elections?—A. Yes, sir.

Q. When?—A. I had been clerk of the election board for six or seven years.

Q. How many negroes voted at Luther at the last election?—A. I think there were five or six.

Q. Do you know their politics?—A. Yes, sir.

Q. What were they?

Mr. MORGAN. Objected to.

A. Republican.

Mr. MORGAN. We object to the question, and we move to strike the question and the answer for the reason that the same is incompetent, irrelevant, and immaterial, and not the best evidence.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Norman, you say you received papers similar to contestant's Exhibits A and B through the mail; was there anything on the envelope or inside it to indicate that the contestee herein, Dick T. Morgan, had procured them to be sent to you?—A. No, sir.

Q. Was his name on the envelope, or anywhere inside the envelope?—A. No, sir.

Q. These five or six negroes out there were all qualified to vote, were they not, under the grandfather clause; that is, they can read and write?—A. Yes, sir; they can read and write.

Q. How many were tested that day?—A. I don't think they tested but the one on the grandfather clause. They possibly tested another one as to his residence. I think there was a question—

Q. The balance of the negroes who voted there, the five or six besides the one who was tested and who passed the test, were all known by everyone—common knowledge there in the town that they were all able to read and write?—A. Generally known to the election officers; yes, sir.

Mr. MORGAN. That is all.

H. E. NORMAN.

Subscribed and sworn to before me this 15th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

ED NEEDHAM, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. Needham, E. Needham.

Q. Where do you live?—A. In Greeley Township.

Q. What county?—A. Oklahoma.

Q. Did you occupy any official position at the last general election?—A. I was inspector.

Q. Had you ever occupied a similar position before in any election?—A. Yes, sir.

Q. What?—A. I have been inspector, and upon the counting board.

Mr. MORGAN. Comes now the contestee and objects to the taking of any testimony regarding the conduct of the election in Greeley Township for the reason that there are no allegations contained in the contestant's notice of contest—there is no allegations with respect to the conduct of the election of said township in said contestant's notice of contest, and especially is there no allegations pertaining thereto in the seventh paragraph in said contestant's notice of contest.

Q. How many negroes voted there at the last election?—A. Five.

Q. To the best of your knowledge do you know their political faith and what their political faith was at that time?

Mr. MORGAN. Objected to as not the best evidence.

A. I don't know any more than in a general way.

Q. What were they?—A. They were supposed to be Republicans, to the best of my knowledge.

Q. Did you receive any threats or struts to be intimidated out there that day in the enforcement of the grandfather clause?—A. Nothing more than we were threatened to be prosecuted by the central committeeman—one of the Republican central committeemen came up there—he came and told me he would prosecute me if I enforced the grandfather clause.

Mr. MORGAN. Comes now the contestee and moves to strike the question and the answer of the witness, for the reason that there are no allegations contained in the contestant's notice of contest regarding any threats or intimidations or other irregularities with respect to the election held in Greeley Township, Oklahoma County, State of Oklahoma on the last regular election.

Mr. GIDDINGS. That is all.

Mr. MORGAN. Comes now the contestee and moves to strike from the record of the testimony of the witness, for the reason that the said evidence shows that the said witness was a precinct election officer of Greeley Township voting precinct in Oklahoma County, and there being no allegations with respect to said election in said Greeley Township in contestant's notice of contest.

Mr. GIDDINGS. Take the witness.

Mr. MORGAN. I don't wish to cross-examine.

E. NEEDHAM.

Subscribed and sworn to before me this 12th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

And thereupon, by consent, further hearing was adjourned until 10 o'clock to-morrow morning.

February 7, 1913, 10 a. m., hearing convened and by consent adjourned until 1.30 p. m., this date.

February 7, 1913, 1.30 p. m., hearing convened and by consent adjourned until 10 o'clock to-morrow morning.

February 8, 1913, 9 o'clock a. m., hearing convened and by consent adjourned to 10 o'clock Monday morning, February 10.

February 10, 1913, 10 o'clock a. m., hearing convened. Four witnesses sworn by the notary public.

Mr. FRANK L. KENYON, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. State your full name.—A. Frank L. Kenyon is the way I sign my name always.

Q. Where do you reside?—A. I live on the southeast quarter of section 29, township 12, range 1, west of Indian Meridian in Oklahoma County.

Q. What township is that?—A. Choctaw Township.

Q. Did you hold any official position in that township at the last general election in November, 1912?—A. Yes, sir.

Q. What? Clerk?—A. Clerk of the election board.

Q. Do you know whether or not any negroes, commonly called colored people, voted there at the last general election?—A. Yes, sir.

Q. How many?—A. As nearly as I can recollect it was six or seven.

Q. Did you receive similar circulars to Exhibits A and B handed you?—A. No, sir.

A. No, sir.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and we move to strike the testimony of the witness for the further reason that it is not shown or attempted to be shown that this contestee sent any circular of the sort or kind shown by the contestant's Exhibits A and B or that it was sent by anyone—

Mr. GIDDINGS. He said he didn't receive it.

Mr. MORGAN. Oh, if he didn't receive it, strike the objection. I was trying to stop him and didn't hear what he said.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Kenyon, you were clerk there in Choctaw Township?—A. Yes, sir.

Q. You say five or six negroes voted?—A. I said six or seven; there possibly might have been only five but the best of my knowledge was there was seven negroes voted out there.

Q. What was the names of those negroes who voted?—A. Oh, I could not attempt to remember them. I kept no record of it only on the stubs of the ballot.

Q. These negroes were allowed to vote by the inspector—passed by him, were they?—A. Those of them that qualified to readily read the Constitution and that could legibly write their names.

Mr. MORGAN. They were allowed to vote?—A. Yes, sir.

Q. And none were allowed to vote except those who did pass the test?—A. No, sir.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. Do you know what the politics of those negroes who voted were?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and the negroes in question are the persons in question that having been first called to testify as to their political faith.

Q. Answer the question.—A. All voted the Republican ticket.

Mr. GIDDINGS. That is all.

Recross-examination by Mr. MORGAN:

Q. Mr. Kenyon, how do you know they voted the Republican ticket?—A. I issued the ballots to them.

Q. But this was on November 5 that we are talking about.—A. The general election.

Q. You would just give the general ballots, the same kind of ballots you gave to any other kind of a voter?—A. Yes; the ballots were issued—the large sheet ballot.

Q. Did you see how they voted?—A. I saw the majority of the ballots, helped put the ballots in the box, helped string the ballots, and helped seal them.

Q. How could you tell which ballot was cast by which particular person who voted?—A. In the first place, that I passed that remark that was my knowledge of the negroes. I have been working negroes in Oklahoma in the building business about 23 years and I have never found a negro Democrat yet—have never seen one.

Q. But I was asking you how you knew?—A. Well, I was just explaining to you how I knew; was my intimate knowledge of negroes. Like a fellow would ask me how I would know about a mule would be my knowledge of mules.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. Do you know of any negro who voted the Democratic ticket?—A. I never knew a negro to vote the Democratic ticket in my life. They don't allow them to vote down in Texas where I come from, down in God's country.

Mr. MORGAN. I am going to leave that in the record.

A. That don't go in the record.

Mr. GIDDINGS. Anything you say goes in the record.

FRANK L. KENYON.

Subscribed and sworn to before me this 12th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

MORRIS S. BAKER, being previously duly sworn, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS.

Q. You may state your name.—A. Morris S. Baker.

Q. Where do you reside?—A. I am on section 14 in this township. I own 10 acres and live on it there in the southwest quarter, southeast of the southeast.

Q. What township is that?—A. Oklahoma Township.

Q. A or B?—A. A.

Q. Did you hold any official position out there at the last general election in 1912?—A. I did.

Q. What was that position?—A. Inspector of precinct A of this township.

Q. Did any negroes vote in that township?—A. Yes, sir.

Q. How many?

Mr. MORGAN. Wait a minute. Comes now the contestee and objects to the taking of any testimony with reference to what might have happened in Oklahoma A precinct, for the reason that the contestant's notice of contest makes no claims or allegations respecting the conduct of the general election in 1912 in said Oklahoma A Township.

A. What was the question?

Q. How many negroes voted there at the last general election in November, 1912?—A. I could not give that; somewhere from 5 to 7 negroes voted there; I don't think as many as voted in the primary on the 6th of August.

Q. Did you apply to them the tests known as the grandfather test?

Mr. MORGAN. Objected to as incompetent, irrelevant, immaterial as to the Oklahoma Township, no allegations being made in the contestant's notice of contest regarding the conduct of the said election.

Q. Answer the question.—A. I presented them with the Constitution; also that they could read and write.

Q. Did you receive previous to the last general election—he is going to answer "No," so you need not make any objection to it—similar circulars to the ones I handed you, marked "A" and "B," respectively?—A. I didn't get one of those. Mr. Giddings; I don't think I ever saw it until I saw it here in your office.

Q. Did you know at the time you acted as inspector of Oklahoma A precinct at the last election of the conviction of Beall and Guinn in Enid for enforcement of the grandfather law?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. No, sir; I don't remember of it.

Q. Do you remember about Beall and Guinn, election officials in Kingfisher County, who have been convicted?—A. No, sir.

Q. In the Federal court for enforcement of this law?—A. No, sir.

Q. Never heard of that—do you know anything about any threats having been made about the enforcement of that law?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. I may have. Well—

Q. Unless you know.—A. Not that I know. I may have seen something in the papers.

Q. Do you know the politics of those negroes who voted out there?—A. I do not.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that the persons in question have not been called to testify regarding their politics or the way they voted in the last election. What was that answer?

A. I don't—I said—know their politics.

Q. What are your politics?—A. Democrat.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN :

Q. These negroes who did vote were tested, were they not?—A. Yes, sir.

Q. By having them read and write—read or write the Constitution?—A. Yes, sir.

Mr. MORGAN. That is all.

MORRIS S. BAKER.

Subscribed and sworn to before me this 5th day of April, 1912.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. HENRY F. BALLARD, being previously duly sworn, testified as follows, to wit:

Direct examination by Mr. GIDDINGS :

Q. What is your name?—A. Henry F. Ballard.

Q. Where do you live?—A. In Oklahoma Township, precinct A.

Q. Did you occupy any official position in that precinct at the last general election?

Mr. MORGAN. Comes now the contestee and objects to any evidence regarding the conduct of the election on the 5th day of November, 1912, in Oklahoma Township, A precinct, for the reason that there are no statements or allegations contained in the contestant's notice of contest respecting the conduct of said election.

A. Yes, sir.

Q. What position?—A. Clerk.

Q. Did any negroes vote in that precinct at the last general election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that no statements or allegations are contained in the contestant's notice of contest regarding the conduct of said election in the said precinct.

A. Yes, sir.

Q. How many, do you know?—A. I remember five and I think there was one or two others.

Q. Do you know what their politics was?—A. No, sir; I could not know that.

Q. To the best of your knowledge, what was their politics?

Mr. MORGAN. Objected to for the reason that the same is incompetent, irrelevant, and immaterial, the parties in question not having been called and refused to testify regarding their politics.

A. Shortly before the election I heard one of the negroes state that he was a Republican and always voted the Republican ticket.

Q. You have not answered my question—I want to know what was your knowledge of the politics of all of them, if you know?

Mr. MORGAN. We object to that for the same reason last above stated.

Q. Do you know of any negro out there who voted the Democratic ticket?—A. No, sir.

Q. At the last general election did you receive similar circulars to Exhibits A and B handed you?

Mr. MORGAN. Contestee objects to that for the reason that the same is incompetent, irrelevant, and immaterial, not having been shown that the contestee or anyone by or for him—

Q. Well, he is going to say "No."

Mr. MORGAN. Had anything to do with the sending of these circulars?

A. Yes, sir; I received one of those.

Q. When did you get that?—A. Well, about the day after the election.

Mr. GIDDINGS. That is all.

Mr. MORGAN. Comes now the contestee and moves to strike all the evidence of Henry F. Ballard and M. S. Baker relating to the conduct of the election in Oklahoma A township, for the reason that the same is incompetent, irrelevant, and immaterial, and for the further reason that no statements or allegations are contained in the contestant's notice of contest respecting the conduct of said election in the said precinct.

Mr. GIDDINGS. That is all.

H. F. BALLARD.

Subscribed and sworn to before me this 22d day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. FRANK REDDING, called to the stand and, being first duly sworn, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. Frank Redding.

Q. How do you spell Redding.—A. R-e-d-d-i-n-g.

Q. Where do you reside?—A. Spencer.

Q. What township is that?—A. Crutchcho.

Q. Oklahoma County, Okla.?—A. Yes, sir.

Q. How long have you lived there?—A. A little more than nine years.

Q. Continuously?—A. Yes, sir.

Q. Are you a married man?—A. Yes, sir.

Q. Were you a married man at the last election?—A. Yes, sir.

Q. Did you occupy any official position at the last general election, November, 1912?—A. Yes, sir.

Q. What was it?—A. Inspector.

Q. Had you occupied a similar position at any other election?—A. Not the same position; no, sir.

Q. What position?—A. I was clerk at the primary in August.

Q. Did you receive previous to the last general election similar circulars to Exhibits A and B, here handed you?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that it has not been proven that the contestee or anyone by or for him wrote or composed or printed or sent the circulars similar to those handed to the witness—to this witness.

Q. Answer the question.—A. I received such circulars.

Q. How did they come?

Mr. MORGAN. Same objection as last above.

A. By mail.

Q. Do you know how many negroes voted in Crutchcho Township at the last election?—A. No; I don't know the exact number.

Q. Do you know about how many?—A. Well, there must have been something like 18 or 20, I suppose.

Q. Do you know generally what their politics was?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and not being shown that the parties in question had refused to testify regarding their politics or that they voted for the contestee herein.

A. I didn't have any evidence. I could not say that I know how they voted. I never heard any of them say how they would vote.

Q. I asked you what their politics was generally represented to be in that neighborhood—Republican, Democratic, Socialist, or what?

Mr. MORGAN. Same objection as last above stated.

A. Generally represented to be Republican.

Q. Do you know any negro out there who voted the Democratic ticket at last general election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial and calling for the conclusion of the witness.

A. No; I don't.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Are you sure, Mr. Redding, that these negroes did not vote the Democratic ticket?—A. No, sir; I don't know what ticket they voted.

Q. You say there were 15 or 20 negroes voted?—A. I think there was possibly something like that. I would not make a positive statement, because I didn't count them at the time.

Mr. GIDDINGS. I object to that question as a misstatement. He said 18 or 20.

Q. Eighteen—I got it down as 15. These 15 or 18 negroes that voted were tested under the terms as what is known as the grandfather clause, were they?—A. Well, part of them were—that I had seen tested at the primary and knew by doing business with them—knew they were capable of reading and writing—were not tested.

Q. Speak louder, please.—A. The one I didn't know, I did, and the others that I have known for a number of years and had business with them and knew they could read and write, I voted them without the tests.

Q. You didn't test them and let them vote without the test, because you knew they could read and write?—A. Yes, sir.

Q. No negroes voted there who were not able to read and write a section of the constitution?—A. I don't think so.

Mr. MORGAN. That is all. Just a moment—one other question: Did the envelope in which these circulars came—or was there anything in the envelope in which these circulars came to indicate to you that the contestee herein, Dick T. Morgan, or anyone by him or for him or his campaign committee, sent that literature to you?—A. I never noticed anything of the kind. I don't remember of it.

Mr. MORGAN. That is all.

Mr. E. A. WAGNER, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. E. A. Wagner.

Q. Have you been sworn?—A. No, sir.

(And thereupon the witness, Mr. E. A. Wagner, was by the notary public sworn to testify the truth, the whole truth, and nothing but the truth in this hearing.)

Q. What is your name?—A. E. A. Wagner.

Q. Where do you reside?—A. Crutch Township.

Q. Oklahoma County, Okla.?—A. Yes, sir.

Q. How long have you resided there?—A. Eighteen years.

Q. Continuously?—A. Yes, sir.

Q. Did you occupy any official position at the last general election?—A. Yes, sir.

Q. What?—A. Clerk.

Q. Had you ever occupied that or a similar position at any other election?—

A. Well, I had been clerk once or twice before and counter one time.

Q. Do you know how many negroes voted in that precinct at the last general election?—A. I should judge, between 20 and 25.

Q. Do you know what their politics were?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial and for the reason that the parties themselves have not been called in and refused to testify regarding their politics.

A. Only from the primary. They generally always took the Republican ticket.

Q. Do you know of any negro out there who voted the Democratic ticket?—A. No, sir.

Mr. MORGAN. That is objected to.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Are you sure, Mr. Wagner, that all these negroes who voted the Republican ticket?—A. At the election?

Q. Yes.—A. No, sir.

Q. You would not be sure of that?—A. I would not swear that.

Q. You didn't see their ballots and see how they did vote?—A. No.

Q. These negroes who did vote were all tested under the terms of the grandfather clause by the inspector?—A. Yes, sir.

Mr. MORGAN. That is all.

Mr. GIDDINGS. That is all.

E. A. WAGNER.

Subscribed and sworn to before me this 17th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

And thereupon by consent the hearing was adjourned until 1.30 p. m., this date.

Hearing resumed, 1.30 p. m. Two witnesses duly sworn by the notary public.

Mr. MORGAN. I will object again to the manner of taking this testimony. Comes now the contestee and hereby again objects to the manner in which the evidence is being taken because of the fact that the testimony of the witnesses, together with the questions propounded by the parties or their agents, are not being reduced to writing at the time that the same is given and is not being reduced to writing in the presence of the parties or their agents attending and not attested by the witnesses respectfully at the time.

Mr. C. B. JACK, called to the stand, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. C. B. Jack.

Q. Where do you reside?—A. Hartzell Township.

Q. How long have you resided there?—A. About 23 years.

Q. Did you ever occupy any official position at any of the elections held in that township?—A. Yes, sir.

Q. Did you occupy any official position at the general election held in 1912 in Hartzell Township, Oklahoma County, Okla.?—A. Yes.

Q. What position?—A. Clerk of the election.

Q. Did any negroes vote in that township at that election?—A. Yes.

Q. How many?—A. I don't remember, but somewhere between 8 and 12, I should judge, or 13.

Q. Do you know what their political faith was?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that the negroes themselves have not been called and refused to testify regarding their political faith or for whom they voted at the last general election.

A. Why, yes, I think they are all Republicans.

Q. Do you know what ticket, if any, they called for at the time of the primary election in August, 1912?

Mr. MORGAN. We object to that as incompetent, irrelevant, immaterial.

A. They all wanted the Republican ticket.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. Could you be sure, Mr. Jack—do you know that all these 8 to 12 or 13 negroes voted the Democratic ticket at the last general election?—A. Do I know that they did?

Q. Yes.—A. No, sir.

Q. Do you know whether or not these negroes who voted were qualified under the grandfather clause—that is, were they tested by the inspector, if you know?—A. Those that voted?

Q. Yes.—A. Every one of them was qualified, so far as we understood, under the grandfather clause.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. Did you know at the time that you served at the last general election anything about the conviction of Beall and Guinn, of Kingfisher?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. Had the officers out in that precinct talked about that matter?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. Yes, sir.

Q. You had considered it?—A. We had talked about it.

Q. Do you know whether the inspector also had considered it?—A. Yes, sir.

Mr. MORGAN. We object to that and move to strike it for the reason that the same is incompetent, irrelevant, and immaterial.

Mr. GIDDINGS. That is all.

Mr. MORGAN. That is all.

C. B. JACK.

Subscribed and sworn to before me this 5th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. E. A. RINGOLD, called to the stand and being first duly sworn, testified as follows, to wit:

Direct examination by Mr. E. J. GIDDINGS:

Q. What is your name?—A. E. A. Ringold.

Q. Where do you reside?—A. Oklahoma City.

Q. How long have you resided here?—A. Eight years.

Q. Continuously?—A. Yes, sir.

Q. Did you occupy any official position in reference to election matters in Oklahoma County at and before the last general election?—A. I did.

Q. What?—A. Secretary of the Oklahoma County election board.

Q. How long had you occupied that position?—A. Since June, 1911.

Q. Are you still the secretary?—A. I am.

Q. Were you in charge of the registration of the voters in Oklahoma City previous to the general election in 1912?

Mr. MORGAN. Comes now the contestee and objects to the question for the reason that the same is incompetent, irrelevant, and immaterial, and for the further reason that under the laws of the State of Oklahoma the secretary of the county election board could have no jurisdiction over the registration of voters, that being delegated to the precinct inspector of each precinct, respectively, in cities.

Q. Answer the question.—A. I wasn't in charge further than advising and instructing the precinct inspectors and registration clerk as to the manner of conducting the registration.

Q. Do you know whether or not there was any hesitancy on the part of those precinct officers with reference to qualifying negroes, commonly called colored people?—A. There was.

Mr. MORGAN. Wait a minute; the contestee objects to the question for the reason that the same is incompetent, irrelevant, and immaterial.

Q. Do you know what the cause of that was?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. I know the cause they gave me was that they were afraid of the Federal laws.

Mr. MORGAN. Comes now the contestee and moves to strike out the answer of the witness for the reason that the same is incompetent, irrelevant, and immaterial, there being no allegations in the contestant's notice of contest relative to prosecution by the Federal authorities in July, the month in which the registration in cities was had.

Q. Did you see any hesitancy upon the part of these precinct election officials in these registration matters?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. Two inspectors resigned their positions in the city rather than conduct this registration.

Q. If you know you may state whether or not they knew and you knew of any prosecutions that had been conducted by the Federal Government on account of the grandfather clause antedating the time of this registration—that is, before.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that there are no statements or allegations contained in the contestant's notice of contest relative to any former prosecution had by a Federal authority.

Q. Answer the question.—A. I knew of such prosecution, and I am not sure that they—I have no proof that they knew of it.

Q. That is other than what you have?—A. Other than they spoke of that they were afraid to undertake to enforce the statute in what is known as the grandfather clause for the reason that they did not want to get into trouble with the Federal authorities.

Q. Mr. Ringold, did you have any difficulty in the securing of precinct election officials to act at the general election in 1912?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and not tending to prove any of the allegations or statements of contestant's notice of contest.

A. In two precincts of this city and two of the counties outside of the city I did.

Q. What were the grounds—what reasons led them to that?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. They simply gave as their reason that they were afraid to get in trouble and could not afford to get into trouble about the election law. They were men of families and could not afford to take the chances.

Q. Do you know respectively who were the Democratic and Republican nominees for Congress in the second congressional district in the State of Oklahoma at the last general election in 1912?—A. I do.

Q. Who were they?

Mr. MORGAN. Objected to unless the witness show himself competent to testify and for the further reason that the records are the best evidence.

Q. Answer the question.—A. J. J. Carney, the Democratic nominee, and Dick T. Morgan, the Republican nominee.

Q. Mr. Ringold, did you keep the registration list made up at the registration period preceding the last general election in November, 1912?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and for the further reason that under the laws of the State of Oklahoma it was the duty of each inspector in his precinct to keep the list of the registration in his precinct.

A. I have in my possession a copy of the entire registration of the city.

Q. Do you know it is a true and correct copy of the entire registration of this city?—A. I do.

Mr. MORGAN. Wait a minute.

Q. Is it?—A. Yes, sir.

Q. Can you produce the originals and attach those originals to your deposition?—A. Certificate or duplicate certificate?

Q. Yes; the registration list, the certificates?—A. Not the originals, no, sir; I can't.

Mr. GIDDINGS. We here offer in evidence a true and correct copy of the entire registration list of the city of Oklahoma City, Okla., preceding the last general election in November, 1912, and ask that the same be marked by the stenographer "Exhibit E."

(Marked "Exhibit E.")

Mr. MORGAN. To which the contestee objects for the reason that the same is incompetent, irrelevant, and immaterial, that it is not shown that the exhibit offered in evidence is a true and correct copy of the registration list, and for the further reason that the records—that the official records is the best evidence—the exhibits offered in evidence being secondary evidence or a copy thereof, and for the further reason that the witness identifying the same is not the proper officer under the laws of the State of Oklahoma to have the registration list of all of the precincts of Oklahoma City in his possession, and the exhibit not being properly authenticated or proven.

Q. What period does that registration list cover?

Mr. MORGAN. And not the best evidence.

A. The month of July, 1912; or rather from July 1 to July 27, 1912, and three days in October. I can't remember the dates, though.

Q. 1912?—A. Yes, sir; three days in the latter part of October—three days out of the last week of October, 1912. I don't remember the dates.

Q. Is there any possible way by which the originals could be attached to your deposition?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. There is not.

Mr. MORGAN. And we move to strike out for the same reason.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. What are the names and addresses of those who resigned their positions as inspectors in Oklahoma County rather than to conduct the registration?—A. A. H. Wollison, precinct 6 of the second ward. H. Sunnyspine, precinct—this was in—this was to conduct the registration—that is, to conduct the election that they resigned from and not the registration.

Q. What precinct is Silvershine in?—A. Sunnyspine; nine of the second. I would like to correct that statement if I could there.

Q. So there were no inspectors who resigned rather than conduct the registration?—A. No—now, that is, Mr. Wollison, Mr. A. H. Wollison, and Mr. H. Sunnyspine both handed in their resignations during the time of registration, but as we had already started the registration and was then—the registration was at that time going on, I refused to accept their resignations until the registration was finished; that is, the county election board refused.

Q. So as a matter of fact there were no inspectors who resigned before the time of beginning the registration, the 1st day of July?—A. Not before the time of beginning.

Q. That is what I say.—A. Yes.

Q. Now, during the time the registration was going on these two men tendered their resignations and their resignations were refused?—A. Until the registration was finished.

Q. And they continued to serve?—A. They continued to serve during the registration.

Q. And were, in fact, inspectors through the whole time of the registration?—A. They were the recognized inspectors of those precincts until the registration

was finished, at which time the resignations were received and new appointments made.

Q. You say in two precincts of the city you had difficulty in getting inspectors. What two precincts were they?—A. Of the city?

Q. Yes.—A. That is the two we just answered, A. H. Wollison in the sixth of the second, the two men who resigned—those two who resigned those places.

Q. How much trouble did you experience in getting men to fill those places.—A. Well, there was quite a little, Mr. Morgan—that is, in getting the—we might have gotten men if we had just took anybody, but in getting capable men we experienced some trouble. Take for instance nine of the second; I went to three different men to get them to take that precinct and finally Mr. J. E. Lucas, who was finally appointed and had refused the place twice; I went the third time to him.

Q. And what were the two precincts in the county?—A. Choctaw Township and Deep Fork Township.

Q. Now, Mr. Ringold, the registration in Oklahoma City in July was not conducted exactly in accordance with the law, was it; that is to say, Mr. Ringold, as I understand it the registration instead of being carried on by each inspector in his own precinct and having a separate place of registration, the registration was conducted at one central point. That is true, is it not?—A. The registration was conducted at one central point, but not in violation of the law as we understand it.

Q. Yes; I understand that, but the mode of operation was the inspectors signed up their book of certificates and then when the voters came in they were directed to a certain table where a man had in charge maybe four or five books of registration slips, and the man who was there in charge of those registration slips and those books—the registration books or certificates—they filled in the blanks and gave the party their registration slip. That was the method of operating?—A. That is correct.

Q. Now, how many of the men who had charge there of the registration at that central point were in fact inspectors?—A. All of them.

Q. Now, who was in charge there of those different tables?—A. Mr. D. Y. Stevens was in charge of the first ward, Mr. Lon Owens was in charge of the second ward, Mr. R. A. Woodriddle was in charge of the third ward, Mr. R. W. Gillette was in charge of the fourth ward, and during this registration all of the inspectors were in and out of this place of registration and in a number of instances issued certificates themselves while there in the place.

Q. Now, this copy of this poll here or this copy of this registration was copied by some one off of the registration stubs, is that it?—A. Yes, sir.

Q. Was it copied by you?—A. It was copied by the assistants in my office.

Q. Not by you personally?—A. Not by me individually.

Q. So you would not know of your own knowledge that this Exhibit E is an exact and true and correct copy?—A. I would be willing to certify that it was.

Q. You would be willing to certify, but you don't know of your own knowledge that it is?—A. Yes; I saw them copying it right off the stub books.

Q. But you didn't watch each name that they copied to see that they got it correct?—A. I did not, but rechecked after it had been copied.

Q. With the aid of some one else?—A. Yes, sir; with the aid of other help.

Mr. MORGAN. That is all.

E. A. RINGOLD.

Subscribed and sworn to before me, this 30th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

The further testimony of this witness is by consent adjourned until 1.30 p. m. to-morrow.

And thereupon two witnesses were duly sworn by the notary public to testify the truth, the whole truth, and nothing but the truth in this cause.

Mr. J. W. SORRELLS, called to the stand, and being first duly sworn, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. You may state your name.—A. J. W. Sorrells.

Q. Where do you reside, Mr. Sorrells?—A. At 706 West Twenty-sixth.

Q. Oklahoma City, Okla.?—A. Oklahoma City, Okla.

Q. How long have you resided in Oklahoma City?—A. About six years—about five years, I guess it is.

Q. Did you occupy any official position at the last general election held within the State of Oklahoma on the 5th of November, 1912?—A. I did. I was precinct inspector of precinct 6, ward 2. I lived then at 1739 East Eleventh street, in that precinct.

Q. Did you serve at that election?—A. Yes, sir.

Q. In that capacity?—A. Yes.

Q. I now hand you Exhibits A and B, and I will ask you if you received previous to the last general election similar circulars?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, not having been shown that this contestee composed or printed or sent circulars similar to Exhibits A and B to the witness or that anyone for him or by his authority sent such circulars.

A. Yes; I got some of those.

Q. How did you get them?—A. Well, I don't remember; I got those, I think, in the mail, though. I know I got a copy of both of those circulars.

Q. What effect, if any, did it have on you in the enforcement of what is commonly termed the grandfather clause?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, calling for the conclusion of the witness, and for the further reason that it was not the duty of the witness as inspector of precinct 6, ward 2, in Oklahoma City, to apply a test under what is known as the grandfather clause to voters applying to vote at the last general election.

A. It caused me to hesitate to enforce the law.

Q. Do you know whether or not it had the same effect upon other election officials there?

Mr. MORGAN. Objected to for the reason that the same is incompetent, irrelevant, and immaterial, and not showing that he knows what effect it had.

A. Yes; they didn't want to enforce it at all. They was afraid of this letter.

Q. Did you know, previous to that time, of the conviction of Beall and Guinn, of Kingfisher County, in the Federal court?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, there being no allegations in the contestant's notice of contest—

A. Yes.

Mr. MORGAN (continuing). That any officers of the last general election were intimidated or affrightened by the conviction in the Beall and Guinn case.

A. Yes; I knew about it; I knew they had—

Q. Were you a married man at that time?—A. Yes.

Q. If it hadn't been for these illegal votes being cast there on account of the nonenforcement of the grandfather clause would you be able to ascertain what would have been the result in that precinct?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for the conclusion and the opinion of the witness.

A. It would have made quite a lot of difference if the negroes had been kept from voting. It would have been about 80 or 90 different.

Mr. MORGAN. We move to strike that out as not responsive to the question.

Q. Do you know the political faith of those negroes, or colored people?—A. Yes.

Q. What was it?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. Republican.

Q. What was the mood of these negroes around the polls that day; was it sullen or otherwise?—A. Well, it was rather threatening, I think. They bothered us quite a lot.

Q. Did any one of them exhibit any of these circulars?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. No; they talked about them. There was three of them came in to me and said they would have us arrested, and I made them get out of the room.

Mr. MORGAN. We move to strike that out as not responsive.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Now, Mr. Sorrells, did you test these negroes on election day?—A. In what way?

Q. By making them read or write a section of the constitution of the State of Oklahoma?—A. Why, let's see; I made them write, but didn't make them read. I didn't make them write the constitution—just their names.

Q. Were there any negroes who voted out there who didn't have registration slips showing that they were registered voters in this city?—A. No.

Q. Then all of them had registration slips?—A. Yes.

Q. Did you understand it to be your duty if they had registration slips to retest them on election day?

Mr. DORTCH. We object to that as incompetent, irrelevant, and immaterial.

A. Well, I didn't know whether they had been tested before or not.

Q. You knew if they had registration slips that they had qualified under the grandfather clause to get them, did you not?—A. Well, there was—I think that they are supposed to; yes.

Q. And notwithstanding the fact if a negro should apply to vote and had a registration slip you proceeded to test them again, did you?—A. I didn't give them—no; it would not be called a test. I made them write their names.

Q. They all wrote their names?—A. All that voted. There was one man came there that didn't have a registration certificate, and could not read or write, either.

Q. Did he vote?—A. No.

Q. You turned him down?—A. Yes.

Q. Any other negroes you turned down?—A. No; these are all.

Q. And you say they all, with the exception of this one, had registration slips?—A. Yes.

Q. In due form?—A. All of them had registration slips.

Q. When did you get these circulars in the mail?—A. Well, I just stated a while ago I don't remember whether I got them in the mail or not, but I got them somewhere.

Q. Did you get them before the election or after?—A. Before the election. And I understood that all the election officers were getting them, and I don't just remember where I got mine. I must have got them in the mail, though.

Q. So in view of the fact that all these negroes except one who voted at that polling precinct had registration slips, it could not be that these circulars had any great influence over you at that election, could it?—A. Well, if I hadn't gotten those circulars I would have put them through a rigid test, anyhow.

Q. In spite of the fact it would not have been your duty to have done so at that time?

Mr. GIDDINGS. We object to that, because it was his duty.

A. I might have understood my duty otherwise.

Mr. MORGAN. That is all.

Mr. GIDDINGS. That is all.

J. W. SORRELLS.

Subscribed and sworn to before me this 26th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. J. E. LUCAS, called to the stand, and being first duly sworn, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. J. E. Lucas.

Q. Where do you reside, Mr. Lucas?—A. Oklahoma City.

Q. How long have you resided in Oklahoma City?—A. Eleven years.

Q. Continuously?—A. Yes, sir.

Q. Did you occupy any official position at the last general election held within the State of Oklahoma?—A. I did.

Q. In November, 1912?—A. I did.

Q. What?—A. Inspector.

Q. What precinct?—A. I think it was—I am not right certain—I think it is precinct B of the second, though, at the end of the viaduct up here.

Q. Precinct 9 of the second?—A. Precinct 9 of the second, was it? I don't just remember.

Q. Did any negroes vote there that day?—A. Yes, sir.

Q. How many?—A. Well, I would judge in the neighborhood of 200, maybe more. I would judge there was about 200, maybe a little more than 200. I don't remember exactly what the entire vote was there.

Q. Do you know what their politics was?—A. Why, I know what the majority of them is.

Q. What?—A. Republicans.

Q. Do you know of any negro who voted the Democratic ticket over there that day?—A. No; I don't.

Q. Showing you Exhibits A and B, I will ask you if preceding the last election you received the same or similar ones?—A. I did.

Q. How did you get them?—A. Through the mail.

Mr. MORGAN. Comes now the contestee and moves to strike the evidence relative to receiving the circulars for the reason that the same is incompetent, irrelevant, and immaterial, and further it has not been shown that the contestee or anyone by or for him composed, mailed, or sent circulars similar to Exhibits A and B to the witness.

Q. What effect, if any, did it have upon you in the enforcement of what is commonly called the grandfather clause at the last general election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for a conclusion of the witness, and further for the reason that under the laws of the State of Oklahoma it is not the duty of the witness as inspector of precinct 9, ward 2, in the city of Oklahoma City, to apply any tests to any voters presenting himself to vote if he had a registration certificate.

A. It had a tendency of me being a little more lenient with the negro votes than if I hadn't received it.

Q. Do you know whether or not it had an effect upon the other officials in the same manner?—A. I think it did; we talked about it.

Q. If it hadn't been for this influence do you know whether or not the results would have been different in that precinct?

Mr. MORGAN. Objected to.

Q. Or would it have any effect upon the result in that precinct?—A. I think it would.

Mr. MORGAN. "I think it would." That is objected to, and we move to strike the answer of the witness for the reason that the same is incompetent, irrelevant, immaterial, and a conclusion of the witness.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Lucas, did any negroes vote there, Mr. Lucas, except those who had registration certificates in precinct 9, ward 2?—A. I don't think there was except—well I don't remember as there was. Now, there has been—well, that wouldn't have any bearing in this case. I don't think there was that I know of.

Q. To the best of your knowledge, then, there was no negroes voted in precinct 9, ward 2, Oklahoma City, except they had registration certificates in due form properly signed?—A. I don't think there was. There was some of them there that had registration tickets that wasn't in due form that we didn't let vote.

Q. Now, did you understand, Mr. Lucas, that if a negro applied to vote in your precinct there on election day and had a registration certificate that it was your duty to test him under the terms of the grandfather clause?—A. Well, that was my understanding about it.

Q. That it wasn't your duty?—A. That it was my duty. Well, if I had any doubt that he wasn't a qualified voter, Mr. Morgan, it was my opinion that I had a right to test him.

Q. But the ones who presented themselves with a certificate, you had no doubt but what they were qualified voters and you didn't test those who presented a certificate?—A. No; I didn't test them.

Q. You just let them—passed them on?—A. I passed them on and let them go.

Q. To the clerk. Though it was evidently your opinion, Mr. Lucas, that every negro who voted was in fact a qualified voter under the terms of the grandfather clause, is that right?—A. Well, Mr. Morgan, I could not hardly answer that as I believe that he was, but at the same time under the conditions existing I could not hardly turn him down.

Q. Now, do you know of—for sure of your own knowledge of any negro having voted the Republican ticket?—A. Do I know?

Q. Of your own knowledge.—A. No, sir.

Q. That any certain negro voted the Republican ticket?—A. Not of my own knowledge.

Q. Then you could not be sure but what all of them voted the Democratic ticket?—A. I could not be sure; the only thing I know is with regard to their registration ticket.

Q. And they represented to be Republicans?—A. Yes.

Q. But you don't know of your own knowledge what ticket they voted?—A. No, sir; I don't.

Q. They might have voted the Socialist ticket for all you know?—A. They might have. [Laughs.]

Mr. MORGAN. That is all.

Redirect examination by Mr. DORTCH:

Q. You know what ballot stubs they called for?—A. Yes, sir.

Q. What?—A. Republican.

Mr. DORTCH. That is all.

Recross-examination by Mr. MORGAN:

Q. As a matter of fact, every voter who applies, even though a Socialist, got the same ballot as every other person who applied to vote?—A. No; no, they didn't.

Mr. DORTCH. They had three books.

A. All in different books.

Mr. MORGAN. I am talking about the general election held November 5—each voter who applied got the same sort of a ticket, and he could vote either the Democratic or the Republican or the Socialist ticket, and he could try to vote the Bull Moose ticket if he wanted to.

A. He could on part of it.

Q. Well, on all of it?—A. I don't know; I don't believe he could.

Q. Don't you know, as a matter of fact?—A. I don't remember now—

Q. That if a Democrat walked up just ahead of me that he got the ballot which was just above mine in the ballot book, and that we both of us got the same sort of ballots to stamp?—A. I am telling you right; I don't remember exactly, but I rather believe that he is right about it [addressing Mr. Dortch].

Q. No question about it. That is all.

J. E. LUCAS.

Subscribed and sworn to before me this 26th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. B. B. MOORE, called to the stand, and being first duly sworn, testified as follows, to wit:

Direct examination by Mr. DORTCH:

Q. State your name.—A. B. B. Moore.

Q. Where do you live, Mr. Moore?—A. At Luther.

Q. In Oklahoma County?—A. In Oklahoma County.

Q. How long have you lived here?—A. About 18 years.

Q. What official position, if any, did you hold during the November, 1912, election?—A. Clerk on the election board.

Q. Of what precinct?—A. Luther precinct, Luther Township.

Q. Luther Township?—A. Yes.

Q. State, if you know, how many negroes voted in that township at the November, 1912, election.—A. Possibly 120 or 130 negroes.

Q. How many votes altogether did you have in that township?—A. We had 198.

Q. I will hand you now contestant's Exhibits A and B and ask you did you receive anything similar to that prior to the election?

Mr. MORGAN. Comes now the contestee and objects to the question for the reason that the same is incompetent, irrelevant, and immaterial, and for the further reason that it is not shown that Exhibits A and B or papers similar thereto were composed, printed, sent out, or procured to be sent out by this contestee, or by anyone for him, or as agent for him, or in his behalf, and that he had not any knowledge of the same.

A. I received circulars similar to Exhibit A but nothing similar to Exhibit B.

Q. When did you receive that?—A. On election day.

Q. How did you receive it?—A. A party handed it to us in the room.

Q. Do you know who that party was?—A. Yes, sir.

Q. Who was it?—A. Thomas McNeal.

Q. Do you know what political faith Thomas McNeal is?—A. Yes, sir.

Q. What is it?

Mr. MORGAN. Objected to as immaterial.

A. Republican.

Mr. MORGAN. And we move to strike out for the same reason.

Q. What effect, if any, did the receiving and reading of that circular have upon you in the enforcement of the so-called grandfather clause?

Mr. MORGAN. Contestee objects for the reason that the same calls for the conclusion and opinion of the witness and not for a statement of any facts.

A. Why, it caused us to let parties vote that we would have not let vote if we hadn't received that circular.

Mr. MORGAN. Contestee moves to strike the last question and answer for the reason that under the laws of the State of Oklahoma it is not the duty of the witness, who was clerk in the Luther precinct township, to administer or give the test under the so-called grandfather clause.

Q. State, if you know, how many voters that you would not have let vote had it not been for this circular.

Mr. MORGAN. Wait a minute. We object to that for the reason that the same is incompetent, irrelevant, and immaterial and calls for the conclusion and opinion of the witness.

A. Fourteen or fifteen.

Q. Were they all negroes?—A. Yes, sir.

Mr. DORTCH. That is all.

Cross-examination by Mr. MORGAN :

Q. Mr. Moore, you are a Democrat, aren't you?—A. Yes, sir.

Q. Mr. Vorel is also a Democrat?—A. Yes, sir.

Q. Do you know a Mr. T. J. Clark in Dewey Township?—A. Yes, sir.

Q. What political faith is he?—A. I am not sure, but I think he is a Democrat.

Q. What about Davis, who was inspector over in Dewey Township, is he a Democrat?—A. I could not say whether he is or not.

Q. What time of day did you get this Exhibit A handed to you or what time of day was it handed to you?—A. It was in the morning about 9.30 or 10 o'clock.

Question. Fourteen or fifteen negroes were allowed to vote that you would not have let vote if it hadn't been for this circular?—A. Yes, sir.

Q. Were these 14 or 15 negroes able to read and write?—A. No, sir.

Q. Did the inspector test them?—A. Yes, sir.

Q. They were not able to read and write?—A. No, sir; they wasn't.

Q. Notwithstanding that fact you let them vote?—A. Yes, sir.

Q. In spite of the fact that the laws in the State of Oklahoma provided that they shan't be allowed to vote?—A. Yes, sir.

Q. You never saw the Boardman—what is known as the Boardman—letter at all during election day?—A. No, sir.

Q. Didn't receive it in the mail?—A. No, sir.

Mr. MORGAN. That is all.

Redirect examination by Mr. DORTCH :

Q. Do you know the political faith of these 14 or 15 negroes that you speak of?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, no proper foundation having been laid by calling these negroes by them refusing to testify regarding their political faith.

A. They were Republicans.

Q. Do you know the names of them?—A. I have a list of them; I don't know whether I have a list of all of them or not, but most of them.

Q. Have you that list with you?—A. Yes, sir.

Q. Produce it, will you. From what was that list prepared?—A. This list was prepared from the stubs of the ballots; as I wrote them off on the stubs I wrote them on this paper in order to keep a list of them.

Q. At the time the vote was cast?—A. Yes, sir; at the time the vote was taken.

Q. Can you take that list and call off the names of the 14 or 15 negroes whom you speak of that voted?—A. I can call most of them, I don't know whether I have all of them here or not, but I think most of them. I have all of them on a separate list, I don't know whether they are all on here or not. They possibly might not be all on here.

Q. Call off what you can, please.—A. Thomas Franklin, Martin Benjamin, Emanuel Moore, Andrew Garrett, John Patterson, R. H. Sheldon, Isaac Armstrong, Frank Mayer, and C. Fox. That is all I have on this list. How many is that, nine?

Q. Nine.—A. I have the others on a list at home. I didn't have time to hunt it up.

Q. There was more than those nine, were there?—A. Yes, sir; there was 15, I think; if I am not mistaken there was 15.

Mr. DORTCH. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Moore, these 14 or 15 negroes you know of your own knowledge that they voted for Dick T. Morgan?—A. No, sir; I don't.

Q. You could not state positively but what they voted for John J. Carney, could you?—A. No, sir.

Q. Where does Tom Franklin live?—A. He lives in Luther Township.

Q. Yes; but about where from Luther?—A. He lives near the town of Luther, just outside the corporation.

Q. And Martin Benjamin; that is, Martin Benjamin, sr., the old man?—A. Yes, sir.

Q. Where does he live?—A. I think he lives southeast of town now somewhere.

Q. About how far?—A. I don't know how far.

Q. Emanuel Moore, where does he live?—A. He lives northwest of town.

Q. About how far?—A. About 4 miles.

Q. About how many miles north and how many west?—A. He lives 2 miles north and 2 west.

Q. Where does Andrew Garrett live?—A. Oh, about a half mile south and a mile west of Luther.

Q. John Patterson, where does he live?—A. I don't know.

Q. Where does R. H. Sheldon live?—A. I don't know where he lives.

Q. Where does Isaac Armstrong live?—A. He lives 1 mile south and 2 miles west.

Q. Frank Mayer, where does he live?—A. He lives northeast of town somewhere, but I don't know exactly where he does live.

Q. C. Fox, where does he live?—A. I don't know.

Q. Now, was there any great disturbance there through election day?—A. No, sir.

Q. Were you threatened with any physical injury if you didn't let these negroes vote?—A. No, sir.

Q. These ballots of these 15 negroes, or however many there were, were placed on a separate string, were they not by you?—A. No, sir.

Q. Were their ballots marked protested?—A. Yes, sir.

Q. Who did string them on a separate string?—A. If they were strung on a separate string the counters done it.

Q. Who marked them protested?—A. I.

Q. Who protested them?—A. The clerk of the inspector.

Q. And you wrote "Protested" on the ballots?—A. Yes, sir.

Q. Yes, sir.—A. Yes, sir; and the number—

Q. You wrote that word "Protested" on the ballots of all those who the inspector did not consider could pass the test required by the grandfather clause?—A. Yes, sir.

Q. And if the word "protest" appears only on nine of these ballots that would be all that was really—that weren't able to pass the test?—A. No; because we didn't write on them all. There were 14 or 15 of them that didn't get through, and I think I wrote "Protested" on every one of them, but I don't know.

Q. How many negroes were tested and turned down?—A. Not let to vote at all?

Q. Yes.—A. Just one.

Q. Were you present the other day when Mr. Vorel testified?—A. Yes, sir; I was here. There was only one man that we turned down that didn't vote at all.

Mr. MORGAN. That is all.

A. Mr. Vorel, I think, was mistaken in his name. He thought it was Emanuel Moore, but it was a fellow by the name of Hill.

Mr. MORGAN. We move to strike out the evidence as not being in response to any question asked the witness.

A. All right.

Mr. MORGAN. That is all.

Mr. DORTCH. That is all, Mr. Moore.

Hearing adjourned until 1.30 p. m.
1.30 p. m., hearing resumed.

Mr. WM. H. SEILER, called to the stand, and being first duly sworn by the notary, testified as follows, to wit:

Direct examination by Mr. DORTCH:

Q. State your name.—A. Wm. H. Seiler.

Q. Where do you live?—A. In Spring Creek precinct; Yukon, route 3, is the post-office address.

Q. That is in Oklahoma County, is it?—A. Yes, sir.

Q. How long have you lived there?—A. About 15 years, I think.

Q. Did you hold any official position during November, 1912, election in this county?—A. Yes, sir; I was inspector.

Q. In that precinct?—A. Yes, sir.

Q. I will hand you contestant's Exhibits A and B and ask you if, previous to the election, you received similar circulars?

Mr. MORGAN. Contestee hereby objects to the question for the reason that it has not been shown that the contestee, or anyone by or for him, composed, sent, or had distributed, in any manner whatsoever, circulars similar to Exhibits A and B, and for the further reason that there are no statements or allegations contained in the contestant's notice of contest concerning the conduct of the election in Spring Creek Township precinct, Oklahoma County, State of Oklahoma.

A. Why I am certain I received B but I am not certain about A.

Q. How did you receive it?—A. Through the mail.

Q. Do you know who sent it?—A. Well it was signed by Boardman, United States attorney, so I supposed it came from that office.

Q. Do you know whether or not the other election officials in that precinct received similar circulars?

Mr. MORGAN. We object to that for the reason it is not been shown that this contestee, or anyone by him or for him sent circulars similar to these exhibits marked A and B or had sent circulars similar to Exhibits A and B.

A. If the others received similar one? I could not say, I could not say whether they did or not.

Mr. DORTCH. That is all.

Cross examination by Mr. MORGAN:

Q. Mr. Seiler, you say this letter was—that you received was signed by Boardman?—A. Yes, sir.

Q. Now, was it signed by him personally, with ink and pen?—A. No, sir.

Q. It was just the print?—A. Just the print; yes, sir.

Q. Just like that, and that is the only reason that you presume that it came from his office?—A. That would be the only reason.

Q. You don't know that is came from his office?—A. No, sir.

Q. Did the envelope in which it came have his return card on it?—A. I could not say.

Q. There was nothing in the envelope or on the outside of the envelope to indicate that it came from Dick T. Morgan or from his campaign committee?—A. Well, I don't think that I noticed that particularly, no.

Q. When did you receive Exhibit A or when did you receive the circular similar to Exhibit A there?—A. Well I am not certain whether I received that Exhibit A. The second one, I believe you have them.

Q. Exhibit B, that is the letter?—A. Yes.

Q. When did you receive that?—A. Oh, it might have been a week or three or four days before the election.

Mr. MORGAN. That is all.

Comes now the contestee and moves to strike the entire evidence of this witness for the reason that there are no statements or allegation contained in the contestant's notice of contest respecting the conduct of the election in Spring Creek Township precinct in Oklahoma County, State of Oklahoma, or that the witness as inspector received such circulars, similar to Exhibits A and B and are incompetent, irrelevant, and immaterial.

Mr. DORTCH. That is all.

WM. H. SEILER.

Subscribed and sworn to before me this 5th day of April, 1913.

[SEAL.]

MARY S. HILL, Notary Public.

My commission expires November 21, 1915.

Mr. E. A. RINGOLD, recalled to the stand, testified as follows, to wit:

Direct examination by Mr. DORTCH:

Q. You have been sworn?—A. Yes, sir.

Q. You are the secretary of the county election board of Oklahoma County, Okla.?—A. I am.

Q. As such secretary have you had in your possession or under your control the returns of the vote cast in the November, 1912, election in this county for Member of Congress?—A. How is that?

Q. The total vote.—A. I have had in my possession the record of the total vote cast.

Q. Have you that record still?—A. Yes, sir.

Q. Produce it, please. I wish you would examine your record and give the total vote cast in Oklahoma County at the November, 1912, election for Dick T. Morgan for Member of Congress.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and for the further reason that the record from which the witness is about to testify has not been properly identified or proven.

Q. You made those entries yourself, did you, Mr. Ringold?—A. These? Yes, sir.

Q. From what did you make these records?—A. From the official returns of the various precincts of the county.

Q. Now, please give the total vote.—A. Five thousand nine hundred and thirty-two for Morgan, Dick T. Morgan.

Q. Please give the total votes cast for John J. Carney.—A. Six thousand eight hundred and seventy-two. Do you want the Socialist vote in that race?

Q. No; I don't want it. Mr. Ringold, do you know in what precinct in Oklahoma there are negro voters?—A. I can name the precincts where the heavy negro vote is, but there is a small scattering vote in a number of precincts in this city.

Q. Name the precincts in which the heavy vote is.—A. Precinct 6 of ward 2, precinct 9 of ward 2, precinct 9 of ward 3, I believe constitute the precincts, and precinct 8 of ward 2 there are some negro votes.

Mr. MORGAN. Comes now the contestee and moves to strike the evidence of the witness as relative to precinct 9 of ward 3 and precinct 8 of ward 2 for the reason that the same is incompetent, irrelevant, and immaterial, and tending to prove or disprove any of the issues in this case, there being no statements or allegations in the contestant's notice of contest regarding the conduct of election in said precincts or that any negroes voted in said precincts who were not qualified to vote under the grandfather clause.

Q. Can you turn to your record and show the total votes cast each for John J. Carney and Dick T. Morgan in precinct 6 of the second ward?—A. Yes, sir. Precinct 6, ward 2, J. J. Carney received 70 votes, Dick T. Morgan 109 votes.

Q. What does your record show as to precinct 9 of the second ward?—A. That J. J. Carney received 70 votes, Dick T. Morgan 151 votes.

Q. What does your records show as to precinct 9 of the third ward?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, there being no statements or allegations contained in contestant's notice of contest regarding the conduct of the election in precinct 9 of the third ward of Oklahoma County, State of Oklahoma, or that any illegal votes were cast therein.

A. In precinct 9 of ward 3 J. J. Carney received 191 votes; Dick T. Morgan, 142 votes.

Q. In precinct 8 of the second ward?

Mr. MORGAN. Comes now the contestee and objects for the reason that there are no statements or allegation contained in the contestant's notice of contest respecting conduct of election in said precinct 8 of the second ward or that any illegal votes were cast therein for the contestee herein, and for the reason that the same is incompetent, irrelevant, and immaterial.

A. In precinct 8 of ward 2 J. J. Carney received 119 votes; Dick T. Morgan, 90 votes.

Q. Have you with you in your possession the stubs of the ballots cast in precinct 6 of the second ward?—A. I have.

Q. Where have those stubs been since the election, Mr. Ringold?—A. They have been locked in the boxes in the room on the west side of the courthouse which has been set aside for the election paraphernalia—the election supplies.

Q. Is that in accordance with the laws of the State of Oklahoma as to the keeping of these ballots?

Mr. MORGAN. We object to that as calling for the conclusion of the witness—calling for an opinion also of the witness.

A. It is.

Q. Who has had the keys for these boxes?—A. At the time of the canvass of the returns from the various precincts of Oklahoma County the boxes were left intact in the room set aside for that purpose, each box being locked and the keys put in an envelope marked with the respective precincts and wards to which they belonged, and the inner door of this room, being a wire door separating the rear room from the front part of the room, was locked by the members of the county election board by running a chain through the wires of this door, and after being locked the key was left in my possession.

Q. It has been in your possession continuously, has it?—A. When I undertook to obey the order of the court and bring these records into the court as ordered I find another chain and lock on this wire door, and the lock which this board had originally left on there had by some means been unlocked and was left hanging on the right-hand side of the door as you come in. In order to obtain possession of these records I filed the chain of the new lock which I found on the door, and have no knowledge of who put it on there nor as to whom has the key to the same. Does that answer all that?

Mr. MORGAN. The other lock had been opened?

A. My lock had been sprung and put on the right side of the wire door and the new lock put on. I don't know who put it on nor who has the key for it. That was this morning.

Mr. DORTCH. Do those stubs, Mr. Ringold, show the names of the voters in those respective precincts?

Mr. MORGAN. Comes now the contestee and objects to the witness testifying concerning what these stubs show, for the reason that the witness has already testified that the lock which he placed on the door to the room, or that part of the room where these records from which he is about to testify were placed by him were found by him this morning sprung and the lock which he had placed thereon hanging off to one side, thus showing that there has been opportunity for a tampering with the records, and that the records have not been kept safe from alteration or mutilation or change.

Mr. DORTCH. I will withdraw that question right now.

Q. Since taking these ballot stubs out you have examined them, have you, Mr. Ringold?—A. I have not further than just the label on the different stubs to see to which precinct and ward they belonged.

Q. Do you see any evidence that they have been tampered with?—A. I do not.

Q. Do these ballot stubs show the names of the respective voters in various precincts?

Mr. MORGAN. Contestee objects to the question and to the giving of any answer in respect thereto, for the reason that the witness has already testified that the lock with which these election paraphernalia and books and records had been kept, or the room where these election records have been kept, has been sprung—taken off the wire door leading into the same—thus giving opportunity for a change or alteration of the election records, and said witness's testimony showing that the records have not been kept under lock and key since the time they were placed there by him, or securely protected since that time.

A. Each stub shows a name and address which to the best of my knowledge was a voter—was an elector of that precinct—and the party to whom the ballot was issued.

Mr. DORTCH. Contestant now offers in evidence ballot stubs for precinct 6 of the second ward and asks that same be marked "Exhibit F" for identification.

Mr. MORGAN. Comes now the contestee and objects to the same being offered in evidence for the reason that the same is incompetent, irrelevant, and immaterial and is not the best evidence of the names of the voters or those voting at the said election, and for the further reason that the testimony of this witness shows that the lock with which he locked the room, or that part of the room in which that record has been kept, was found by him to have been sprung and unlocked this morning when he went to get these records, and whereby there has been given opportunity to change, alter, or mutilate said records, and that the said witness's testimony shows that—or fails to show—that the said records have been securely protected since the time they were placed therein by him and the remainder of the county election board, and there has been no evidence offered to rebut the presumption that the same have been tampered with since that time.

(Exhibits marked "F.")

Mr. DORTCH. I just introduced down to where the ballots are attached, and we introduce the last page.

Mr. MORGAN. To which the contestee makes the same objection as last above stated.

Q. Have you the ballot stubs for precinct 9 of the second ward?—A. I have.

Mr. DORTCH. Contestant now offers in evidence the ballot stubs of precinct 9 of the second ward down to the full sheet and including the last page, showing the certificate.

Mr. MORGAN. To which the contestee objects, for the reason that the same are incompetent, irrelevant, and immaterial, and have not been properly identified or proven, and for the further reason that the testimony of this witness shows that the lock which was on that part of the room in which said record has been kept since the time it was deposited there by the witness and by the other members of the county election board is shown to have been sprung and the said door unlocked, thus opportunity having been given for the changing or altering or mutilating the same, and said witness not having testified to sufficient to rebut the presumption that the same have not been kept safely since the election time and have been tampered with.

(Marked "Exhibit G.")

Q. Have you the ballot stubs of precinct 9 of the third ward?—A. I have.

Q. Those are they, are they?—A. Yes, sir.

Mr. DORTCH. Contestant now offers in evidence the ballot stubs of precinct 9 of the third ward.

Mr. MORGAN. Comes now the contestee and objects to the receiving of the same in evidence for the reason that the same are incompetent, irrelevant, and immaterial, and for the further reason that no statements or allegations are made in the contestant's notice of contest respecting the conduct of the election in said precinct 9 of the third ward or the votes therein or the validity of the voters in casting the ballots in said precinct, and for the further reason that the testimony of the witness shows that the room in which said records have been kept has not been locked during the entire time and that opportunity has been given to alter, mutilate, change the said record, and that there has been no showing that said records have not been tampered with.

(Marked "Exhibit H.")

Q. Have you the ballot stubs of precinct 7 of the third ward?—A. I have.

Mr. MORGAN. Seventh of the third?

Q. Yes. Are they those?—A. Yes, sir.

Mr. DORTCH. Comes now the contestant and offers in evidence the stubs of the ballots of precinct 7 of ward 3 cast in the last general election.

Mr. MORGAN. To which the contestee objects as incompetent, irrelevant, and immaterial, and for the reason that there are no statements or allegations contained in the contestant's notice of contest respecting the conduct of the election in said precinct 7 of ward 3 of Oklahoma City, Oklahoma County, State of Oklahoma, nor respecting the validity of the ballots or the qualifications of the voters in said precinct, and for the further reason that the evidence of the witness shows that the room in which said records have been kept was found by him this morning when he went to get said records to be—when he got them there—change all that—the evidence of the witness showing that the lock that the witness and other members of the county election board had placed on the door of that part of the room where the said records had been kept was found this morning by the witness to have been sprung and unlocked, and there having been no showing that there has not been opportunity to change, alter, or mutilate the said records.

(Marked "Exhibit I.")

Q. Have you in your possession the stubs of the ballots of precinct 1 of the fourth ward of the last election in this city?—A. I have.

Q. Is that it?—A. It is.

Mr. DORTCH. Contestant now offers in evidence the ballot stubs showing the names and addresses of the voters and the number of votes cast in precinct 1 of the fourth ward in the November, 1912, election.

Mr. MORGAN. To which the contestee objects as being incompetent, irrelevant, and immaterial, and for the further reason that there are no statements or allegations contained in the contestant's notice of contest respecting the conduct of the election in said precinct or as regards the qualification of the voters who voted in that precinct at said election. And for the further reason that the testimony of the witness shows that the lock with which he and the other

members of the election board locked the room in which said records have been kept was found by him this morning to have been sprung and hung to one side, this opportunity having been given to change, alter, and mutilate the said records, and for the further reason there has been no showing that since said election the said ballots have not been tampered with or changed and there has been no evidence showing that—and for the reason that there has been no evidence showing that said records have been securely kept under lock and key and securely protected since said election.

Mr. DORTCH. Contestant asks that the exhibit be marked for identification.

(Marked "Exhibit J.")

Q. I wish you would take the record that you made as secretary of the county election board and compare that record with the ballot stubs introduced in evidence and see whether or not the two are the same.—A. (Witness examines.) If you will pardon me there—the ballot stubs? I didn't intend for you to take this down. You see, there are the ballot stubs, and we are comparing with the official returns in the back of the ballot books.

Q. I will change the question to the official returns in the back of the book.—A. The official returns shown in the back of the book of ballots now in evidence is the same as the records of the county election board which was made from the official returns delivered to this board by the precinct inspectors at the time of delivering their return.

Mr. DORTCH. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Ringold, look at the record in the back of the ballot stubs there of these books, and what therefrom is the votes between John J. Carney and Dick T. Morgan in precinct 9 of ward 2?—A. Carney, 70; Morgan, 151.

Q. Precinct 9 of ward 3?—A. Are you going to take that all?

Q. Yes.—A. Call for 6 of ward 2, then.

Q. All right—6 of ward 2?—A. Carney, 70; Morgan, 109.

Q. 1 of 4?—A. Carney, 144; Morgan, 136.

Q. 7 of 3?—A. Carney, 220; Morgan, 122.

Q. 9 of 3?—A. Carney, 191; Morgan, 142.

Q. Now, turn to the record that you kept and give me the vote there.—A. You have that right ahead of that.

Q. All right; shorten that—give me 1 of 4.—A. You want the vote cast in 1 of 4?

Q. As between Carney and Morgan.—A. Carney, 144; Morgan, 136.

Q. And in 7 of 3.—A. Carney, 220; Morgan, 122.

Q. Mr. Ringold, to what political party do you belong?—A. The Democratic Party.

Q. Now, Mr. Ringold, do you know the political affiliation of these various inspectors and judges and clerks—most of them?—A. I don't know whether that is—let's see—that is, if I would name them to you, you would know whether or not they are Republicans or Democrats, wouldn't you?—A. I would not know who they cast their ballots for.

Q. But you would know to what political party they belonged generally and with which political party they generally affiliated?—A. Yes, sir.

Q. In political matters?—A. I would know the party with which the majority of them is supposed to belong to—the party affiliated with.

Q. Are you acquainted with J. W. Sorrels?—A. I am.

Q. To what political party does he belong, if you know?—A. I suppose he is a Democrat.

Q. And F. L. Clerk, clerk in ward 2, precinct 6, with what political party is he affiliated?—A. I am not acquainted with him.

Q. J. E. Lucas, to what political party does he belong?—A. He is supposed to be a Democrat.

Q. Mr. Frank Redding, Crutch Township?—A. I don't know him personally.

Q. E. A. Wagner, a little fat fellow?—A. I am not personally acquainted with him.

Q. J. N. Spear, Choctaw Township?—A. He is supposed to be a Democrat.

Q. Thos. J. Clark, Dewey Township, the clerk of the Dewey Township?—A. I am not personally acquainted with him.

Q. Do you know W. I. Davis?—A. I do.

Q. To what political party does he belong?—A. He is supposed to be a Democrat.

Q. Mr. E. Needham, in Greeley Township, to what political party does he belong?—A. Supposed to be a Democrat.

Q. And J. E. Parks, of Hartzell Township?—A. He is supposed to be a Democrat.

Q. And C. B. Jack, clerk of Hartzell Township?—A. I am not acquainted with him.

Q. Louis Vorel, inspector in Luther Township, to what political party does he belong?—A. He is supposed to be a Democrat.

Q. And D. B. Moore?—A. I am not personally acquainted with him.

Q. C. H. Ray, of Luther City?—A. He is supposed to be a Democrat.

Q. H. E. Norman, Luther City?—A. I am not personally acquainted with him.

Q. M. S. Baker, Oklahoma A Township, to what political party does he belong?—A. He was recommended as a Democrat.

Q. And H. F. Ballard, of the same township?—A. I am not personally acquainted with him.

Mr. MORGAN. That is all.

Mr. DORTCH. That is all.

E. A. RINGOLD.

Subscribed and sworn to before me this 30th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. MORGAN. Comes now the contestee and moves to strike the entire testimony of the witness, together with all exhibits introduced as identified by him, for the reason that the same are incompetent, irrelevant, and immaterial; and for the further reason that no statements or allegations were made in the contestant's notice of contest respecting any of the election precincts except precinct 6 of ward 2 and precinct 9 of ward 2 in Oklahoma City, Oklahoma County, State of Oklahoma; and for the further reason that the testimony of the witness shows that the lock upon that part of the room in which the said records so identified by him have been kept since the county election board finished their tabulation of the vote for November, 1912, election was found by him this morning, when he went to get the records, sprung, the witness testifying that he didn't know how long the same had been unlocked, said testimony showing that there has been opportunity for a change, mutilation, or alteration of the records, and said evidence showing that the said election records have not been kept safely and securely under lock and key since the time the county election board finished tabulation of the votes or vote in Oklahoma County.

And thereupon, by consent of parties, the further hearing of the case was continued until to-morrow at 1.30 p. m.

February 12, 1913, 1.30 p. m., hearing resumed.

Three witnesses duly sworn by the notary public to testify the truth, the whole truth, and nothing but the truth.

Mr. W. W. BARKER, called to the stand, testified as follows, to wit:

Direct examination by E. J. GIDDINGS:

Q. You may state your name.—A. W. W. Barker.

Q. Where do you reside, Mr. Barker?—A. Springer Township, Jones City.

Q. How long have you resided there?—A. About 15 years.

Q. That is in Oklahoma County, State of Oklahoma, is it?—A. Yes, sir; on the east side of the county.

Q. What is your business?—A. I am a carpenter by trade.

Q. Did you occupy any official position at the last general election held within the State of Oklahoma, on the 5th of November, 1912?—A. I was clerk of the board.

Q. Did you occupy a similar position to that at any time?—A. I think it has been about six years.

Q. You have been clerk?—A. Yes, sir.

Q. Do you know how many negroes voted in that precinct at the last general election?—A. I don't know that I can give you the exact number.

Q. To the best of your knowledge.—A. Oh, I would say in the neighborhood of 60—right close to it—might possibly have been a few more, might be a few less, but that won't miss it far, though, Gid.

Q. Previous to the holding of that election did you receive similar circulars to Exhibits A and B here handed you?

Mr. MORGAN. We object to that as incompetent, irrelevant and immaterial, and not having been first shown that the contestee herein composed, sent, or distributed in any manner whatsoever circulars similar to those handed to the witness or that anyone for him or by his authority did so. And I want to ask, pardon me, but did this witness say he was inspector out there in Springer?

Q. Clerk, answer the question.—A. Yes, sir.

Q. How did you receive them?—A. Through the mail.

Q. Who was inspector out there?—A. H. S. Lowp.

Q. Do you know why he is not here to-day?—A. He is sick; down with pneumonia.

Q. Do you know whether Mr. Lowp, who was inspector at the last election, also received those circulars?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. Yes, sir. Every member of the board got the same thing.

Q. Do you know what effect that had in the enforcement of—strike that—do you know what effect those circulars had in the enforcement of what was commonly called the grandfather clause; that is to say, what effect it had on the election officers of that precinct?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for the conclusion of the witness.

A. Yes, sir.

Q. What?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and calling for the conclusion and opinion of the witness.

A. We permitted them all to vote.

Q. Who do you mean by all?—A. All the colored voters; everybody who asked for a ticket got it.

Q. Why were you afraid to enforce the grandfather clause down there?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven.

A. Well, most all of them were familiar with the condition out here, of the conviction of two or three fellows on the election board at Enid.

Mr. MORGAN. We move to strike that as not responsive to the question asked the witness and as incompetent, irrelevant, and immaterial.

A. I think they all had the same fear of the same thing.

Mr. MORGAN. Comes now the contestee and moves to strike the answer of the witness as incompetent, irrelevant, and immaterial, and not responsive to any question propounded to the witness.

Q. Do you know what the political faith of those negroes was?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. They would just vote one way.

Q. And what way?—A. Republican.

Q. Do you know any negro out there who voted the Democratic ticket?—

A. (Laughs.) No.

Q. If it hadn't been for the receipt of those communications and for the fear of Federal prosecution, as you have testified, and you had been permitted to enforce the grandfather clause—that portion of the election laws—what would have been the result in that township; that is to say, would it have changed the result in that precinct?—A. I think that—

Mr. MORGAN. Wait a minute, we object to that as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven, and calling for the conclusion and opinion of the witness.

A. I think knock the black right out of the law.

Q. What effect did that have on the result in that precinct between the different candidates for office; would it have been Democratic or Republican?

Mr. MORGAN. The same objection as last heretofore given.

A. I see the question—it would have meant the number I gave you—60 challenged—cut out.

Q. Would it have had the effect of changing the result in that precinct?—A. Oh, sure, sure.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and assuming a state of facts not proven.

A. Yes, sir; yes, sir.

Q. Do you know most of those negroes out there?—A. Pretty well acquainted with them.

Q. Do you know whether all of them were capable of reading a portion of the State constitution of Oklahoma and writing a portion thereof?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. Quite a number of them isn't.

Q. Did they vote anyway?—A. They all voted.

Q. Did you have any trouble about getting anybody to serve on the board down there on account of the letters and prosecution?—A. Yes, sir.

Mr. MORGAN. We move to strike that as incompetent, irrelevant, and immaterial, there being no allegation in the contestant's notice of contest concerning any alleged difficulty in securing officers to officiate at the November, 1912, election.

A. Yes, sir.

Q. State what it was.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and for the reason that there are no statements or allegations contained in the contestant's notice of contest respecting any alleged difficulty in securing officials to serve.

A. Mr. Lowp, who has been, I think, in the same place, I think, for 8 or 10 years, and he was about to quit—to resign—in dread of the Federal law.

Q. Is he a married man?—A. Yes, sir.

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

Q. Were you at that time a married man?—A. Yes, sir.

Q. A man of family?—A. Yes.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. Mr. Barker, where do you live?—A. Jones City.

Q. In Jones City?—A. Yes, sir.

Q. What do you do there?—A. My trade is carpenter.

Q. You say there were about 60 negroes voted there in Springer Township?—

A. I think that is about right; yes.

Q. And you are personally acquainted with all of them, are you?—A. Most of them; yes. I have been there 15 years and done business with most of them, unless those who came in in the last year or two; maybe I haven't acquired an acquaintance with them of any great extent.

Q. I will ask you, Mr. Barker, what sort of a building was the election held in out there in Jones?—A. You mean what, the construction?

Q. How many rooms, if there was more than one?—A. Yes; we held the election in the back end of an old building there that was occupied by a bank; the clerks were in one room; that is, the counting clerks.

Q. How is that?—A. The counting clerks were off in one room themselves, but the doors were all open to the back room where they was voting in the booth.

Q. Were you in the room in which Mr. Lowp was located that day?—A. Well, no; I had an old counter back there that I was using for a desk, and the room was small where I was; and where the room they voted in was small, and we cut it up so they could set the booth right in the middle of the floor.

Q. So you were not actually in the room where Mr. Lowp was located?—A. A good many times; yes, sir; a good many times.

Q. During the entire day?—A. Yes, sir.

Q. Who was it tested the negroes, Mr. Lowp or yourself?—A. Mr. Lowp would test them when they asked for a ticket.

Q. What sort of test would he apply to these negroes who presented themselves?—A. He would ask them if they could read and write.

Q. If they would say they could, would he pass them?—A. No; he generally put them under test.

Q. Put all of them under test?—A. And then he would pass them out—

Q. You say all the negroes who voted there were tested by Mr. Lowp according to the best of your knowledge?—A. Yes; I think they was.

Q. Did you turn any of them down?—A. No.

Q. But he did test them all?—A. Yes, sir.

Q. And had them write some part of the constitution of the State of Oklahoma?—A. No; I think he had them to read, mostly.

Q. Now, do you know of any negro who was allowed to vote who can not read and write?—A. Oh, sure.

Q. And yet you say Mr. Lowp tested them all?—A. Sure.

Q. To what political party do you belong, Mr. Barker?—A. Well, I have been connected with the Democratic Party—identified with them.

Q. Ever since you became of voting age?—A. Yes; but I wasn't raised in that faith; my father was a Republican ahead of me, but I could not go it.

Q. Now, Mr. Barker, was there any disturbance there on election day among the negroes—any trouble of any sort?—A. No.

Q. No threats of personal violence made against you or Mr. Lowp if you didn't let the negroes vote?—A. By whom?

Q. By the negroes or by anyone?—A. No.

Q. You heard nothing of that kind?—A. No.

Q. When did you get these Exhibits A and B?—A. Just a day or two before election.

Q. There was nothing on the envelope in which they came to indicate that they came from this contestee, Dick T. Morgan?—A. Well, now, I would not want to say.

Q. As a matter of fact, they came in an envelope upon which there was no return card whatever; is that not true?—A. What do you mean; printed on the corner return?

Q. Yes.—A. It might have been there and me not see it. I didn't, and I don't know whether it was or not; I would not want to say as to that.

Q. Now, Mr. Barker, what was the procedure in the voting there that day? These negroes would come up to Mr. Lowp, and he would test them, and then he would signal?—A. No, no.

Q. In some manner to you?—A. No; the first thing they would come to me and ask for tickets, and then Harry would generally follow right in with them.

Q. Who was Harry?—A. H. S. Lowp, and he would ask them question, Do you boys read and write? And if a man could—

Q. And then he—

Mr. GIDDINGS. Let him answer the question.

A. If one could he would say yes, and if one couldn't he would say no.

Q. You say Mr. Lowp is very sick with typhoid fever or pneumonia?—A. Yes, sir.

Q. How long has he been sick?—A. A couple of weeks.

Q. Isn't he better?—A. Well, some days he is. He was better yesterday and thought he would come this morning, and when I left him he wasn't able to get out of bed.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. You mean by testing them they would say yes, they could read and write, or something like that, and that would be about all the test that Lowp would apply to them?—A. If a man would tell he could read and write, Harry is like I am; he knows most of them; he has loaned them money and taken their notes, and he pretty nearly knows; he is pretty well posted.

Q. But he wouldn't apply the strict test of the grandfather clause to them?—A. No, no; he didn't have none of them to write, but reading—if he doubted a man could read, he would let him try it.

Mr. GIDDINGS. That is all.

Recross-examination by Mr. MORGAN:

Q. Now, Mr. Barker, those whom Mr. Lowp knew could read and write—he didn't apply the test to those?—A. Well, as I told you, he would ask all of them, and I don't think he missed any of them on that.

Q. Now, the negroes he knew could read and write from his previous experience with them—he didn't test them? Now, all the rest of the negroes who votes there that day were required by him to read, you say—that is right, isn't it?—A. No.

Q. That is what I understood you to testify.—A. No; I don't think he missed any of them much on the reading.

Q. He required all of them to read?—A. He might have passed one or two, maybe, but he was just as familiar with them—some of them were school-teachers, you know.

Q. Now, the rest outside of those school-teachers—he had all of them read?—A. All of those who voted.

Mr. GIDDINGS. We object to that question as a misstatement.

A. Yes; he would have them read; if they started off all right, he would tell them to stop.

Q. If they started to read, he would stop them?—A. Yes; just enough to convince him, is all.

Mr. GIDDINGS. That is all.

Mr. MORGAN. That is all.

W. W. BARKER.

Subscribed and sworn to before me this 8th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. F. H. MORRIS, called to the stand, and being previously sworn, testified as follows, to wit:

Direct examination by Mr. GIDDINGS:

Q. State your name.—A. F. H. Morris.

Q. Where do you live?—A. Arcadia.

Q. How long have you lived at Arcadia?—A. About seven years, I believe.

Q. What is your business?—A. Mercantile business.

Q. What township in Oklahoma County, Okla., is Arcadia in?—A. Deep Fork.

Q. Did you occupy any official position at the last general election in Deep Fork Township, Oklahoma County, Okla.?—A. Clerk of the election board.

Q. Had you occupied that position previous to that time?—A. Yes, sir.

Q. How many negroes voted in that precinct, to the best of your knowledge, at the last general election?—A. Let me see—about 70 per cent of the Republican vote there is negroes, and I don't know what the Republican vote is; I can't remember it from time to time. It is probably, though, about 135 or 140 Republican votes, and I think there is at least 70 per cent of them negroes.

Q. Do you know of any negro there who voted the Democratic ticket at the last general election?—A. No, sir.

Q. Previous to the last general election, in 1912, did you receive any circulars similar to Exhibits A and B, handed you here?—A. Yes, sir.

Q. When did you receive them?

Mr. MORGAN. We object to that move to strike the evidence of the witness for the reason that the same is incompetent, irrelevant, immaterial, and not having been shown that the contestee herein sent the circulars similar to this witness, or that they were sent, if they were sent, by his knowledge, with his knowledge, or for him.

Q. Answer the question.—A. I think the day before the election, I believe it was.

Q. What effect, if any, did these circulars have upon you in the enforcement of the election laws of the State of Oklahoma?

Mr. MORGAN. That is objected to as incompetent, irrelevant, and immaterial, calling for the conclusion of the witness and the opinion of the witness.

A. Well, I simply didn't want to try to enforce the grandfather clause in the state it was in with those threats over me.

Q. Were you a married man at that time?—A. Yes, sir.

Q. A man of family?—A. Yes, sir.

Q. Besides your wife?—A. Yes, sir.

Q. Do you know most of these negroes in that township?—A. Yes, sir; I don't think there is a one I don't know.

Q. If you could have enforced this law in that township, would it have made a difference in the result?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, calling for the conclusion of the witness and a computation.

A. Yes, sir; no doubt about it.

Q. Which way?—A. It would have given the Democrats the majority.

Mr. MORGAN. We object to that and move to strike the same from the record for the reason that the same is incompetent, irrelevant, and immaterial, and a conclusion of the witness.

Q. Did you see any of these negroes tested there by making them read and write thoroughly a portion of the constitution of the State of Oklahoma?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. No; we didn't put the test to any of them. We asked them if they could read and write.

Q. If they said yes, what was done?—A. Let them vote.

Q. Do you know whether there is any illiteracy among the negroes in that township?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. I do; yes, sir.

Q. Is there much or little?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. Why, I believe there is about—I believe there is a third of them fully vote according to the law.

Mr. MORGAN. We move to strike that as not responsive to the question propounded and incompetent, irrelevant, and immaterial.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. Mr. Morris, this is Deep Fork Township?—A. Yes, sir.

Q. You say there is about 135 Republican votes out there in that township?—A. Yes, sir; my best recollection somewhere along that neighborhood.

Q. And your guess is that 70 per cent of those are negroes?

Mr. GIDDINGS. We object to the guess and as assuming a state of facts not proven because the witness has not guessed at it. Answer the question.

A. What is the question?

(Question read.)

A. About 70 per cent.

Q. Now, did you understand, Mr. Morris, that under the laws of the State of Oklahoma and the grandfather clause in particular that it was your duty to enforce the grandfather clause there, or was that not rather the duty of the inspector, Mr. Burnsworth?—A. Well, it is the inspector's duty to qualify a voter, I believe.

Q. How many negroes voted that day?—A. I think every one in the township.

Q. You think every one in the township?—A. I think they were all there—I mean every negro who was old enough to vote. Let me modify that. I know there is one negro didn't vote, and there is one negro who has never voted since this law went into effect.

Q. Who is he?—A. Isaac Rogers.

Q. Did Mr. Burnsworth—how long has he lived in that township?—A. I don't know.

Q. Now, the negroes as they came up to Mr. Burnsworth were first asked by him whether or not they could read and write?—A. How is that?

Q. The negroes when they first came up to vote were asked by Mr. Burnsworth, as I understand it, whether they could read and write?—A. No; I think I handled the ballots, and I believe I asked that question myself before I gave them the ballots—most of the time.

Q. And if they said they could read and write you gave them the ballot, did you?—A. Yes, sir.

Q. And neither Mr. Burnsworth or yourself applied any further test to them?—A. No, sir.

Q. Now, were there any negroes who were tested that day by Mr. Burnsworth or by yourself?—A. Yes, sir; I think we put the test to about two or three, beginning in the morning.

Q. Did they pass the test all right?—A. No, sir; we turned them down—until late in the afternoon.

Q. Until late in the afternoon, then you let them vote?—A. Yes; they got boisterous and we thought we would pass them in.

Q. Who got boisterous?—A. The negroes and the white people together. We had a little trouble.

Q. What were the names of these two or three you tested and turned down?—A. I don't remember; yes, I can give you one of them. Maybe I can give you two. Fred Trent and Anderson Harrison; and I don't know whether there was another one or not, but I think—I don't remember his name.

Q. Those were the only two that were tested that day?—A. We quit applying the test from that time on.

Q. Do you know Sam Fain?—A. Yes, sir.

Q. Did he vote?—A. Yes, sir.

Q. Did Bob Harris vote?—A. I don't recall Bob Harris, but I know we let all of them vote; I could not tell you as to Bob Harris.

Q. What about Henry Burton?—A. He voted.

Q. How about Henry Grissom?—A. Henry Grissom voted—now to the best of my knowledge he voted; I know him very well, and I don't think we missed him on that day. I think he was right there; we generally have the same rounds with that bunch every election.

Mr. MORGAN. That is all.

Redirect examination by Mr. GIDDINGS:

Q. You say they got boisterous out there in the afternoon and you let them vote?—A. Yes, sir.

Q. What was the temper of those negroes out there that day; was it sullen, moody, or was it even temperate?

Mr. MORGAN. Comes now the contestee and objects to the question and the answer thereto for the reason that no statements or allegations were contained in the contestant's notice of contest to the alleged effect that the negroes in any township in the district or any voting precinct or district were sullen or boisterous or threatening in their attitude and for the reason that the same is incompetent, irrelevant, and immaterial.

A. Well, after declining these two negroes in the morning there after they begun to get loud and in the afternoon we could hear them down at the foot of the stairs there, and we had three or four come around demanding a ballot in a loud tone, getting like they were getting pretty rollicky, I call it, right around our desk, and they weren't in a very good humor.

Q. You say the negroes and the white people together got, as you term it, boisterous out there; what white people were they, Republicans or Democrats, or what?

Mr. MORGAN. We object.

A. They were Republicans.

Mr. MORGAN. We object to that and move to strike the question and the answer for the reason that the same is incompetent, irrelevant, and immaterial.

Q. Any member of the Republican committee or the Republican organization among the number?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial.

A. I know who it was, but I don't know whether he was a member of any committee or organization or not; I could not say; I would not answer the question; I don't know.

Mr. GIDDINGS. That is all.

Recross-examination by Mr. MORGAN:

Q. Mr. Morris, to what political party do you belong?—A. Democratic.

Mr. MORGAN. That is all.

F. H. MORRIS.

Subscribed and sworn to before me this 2d day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. C. E. BURNSWORTH, called to the stand, and being previously duly sworn, testified as follows:

Direct examination by Mr. GIDDINGS:

Q. What is your name?—A. C. E. Burnsworth.

Q. Where do you live, Mr. Burnsworth?—A. Arcadia.

Q. What township in Oklahoma County, Okla., is that in?—A. Deep Fork.

Q. How long have you resided in that township?—A. Fifteen years.

Q. What is your business?—A. Farmer.

Q. Did you occupy any official position in that township at the last general election?—A. Yes, sir.

Q. Held within the State of Oklahoma on November 5, 1912?—A. Yes, sir.

Q. What?—A. I was inspector of the election board.

Q. How long had you occupied that position?—A. Oh, I have not been on the election board for four years until this year, and I was on the primary and general election both.

Q. I hand you Exhibits A and B, and I will ask you if, previous to the said last general election, you received similar circulars?—A. Yes, sir.

Mr. MORGAN. Wait a minute. We object to that as incompetent, irrelevant, and immaterial, there being no showing that the circulars similar to these handed to the witness were prepared or written, composed, printed, or mailed by the contestee herein or by anyone for him or in his behalf or as agents.

Q. Answer the question.—A. Yes, sir.

Q. How did you receive them?—A. By the mail; through the mail.

Q. What effect, if any, did the receipt of those circulars have upon you in the enforcement of the election laws of the State, and particularly of that portion thereof commonly known as the grandfather clause?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and calling for the conclusion and opinion of the witness.

Q. Answer the question.—A. Oh, it had a tendency to weaken us down, of course; we didn't feel like going up against the Federal laws. As a matter of fact, we had read about the prosecutions out about Kingfisher, and we were still laying again that; we understood that was something similar—the same thing.

Mr. MORGAN. Comes now the contestee and moves to strike the testimony of the witness relating to an alleged conviction of parties in Kingfisher County as not being responsive to the question and as incompetent, irrelevant, and immaterial.

Q. If it hadn't been for the receipt of these communications would you have enforced the election laws of Oklahoma at that election in that township?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, calling for the conclusion and opinion of the witness.

A. Yes, sir.

Q. How many negroes voted in that township at the last general election to the best of your knowledge?—A. As nearly as I recollect, about 70.

Q. What were their political faith?—A. Republican.

Mr. MORGAN. Comes now the contestee and moves to strike the question and the answer for the reason that the same is incompetent, irrelevant, and immaterial, no proper foundation having been laid therefor.

Q. If that provision of the election laws of this State, to wit, what is commonly termed the grandfather clause, had been complied with out there, enforced, would it have changed the result in that precinct?

Mr. MORGAN. Wait a minute, you can answer that yes or no.

A. Yes.

Mr. MORGAN. Objected to, and the contestee moves to strike the question and answer for the reason that the same is incompetent, irrelevant, and immaterial and calling for a conclusion of the witness.

Q. Now, which way would it have changed the result?

Mr. MORGAN. The contestee objects for the reason that the same is incompetent, irrelevant, and immaterial and calls for the conclusion of the witness.

A. It would have throwed it in favor of the Democrat.

Q. Would the Democrats have carried that township in the event that this election had been held under the compliance with the grandfather law?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, calling for a conclusion and a computation of the witness.

A. They may not have carried but they would have come awfully close to it.

Q. Did you compel any of those negroes to read and write a section of the Constitution?—A. Not at the general election, but at the primary I did.

Q. At the general election, that is what I am asking about?—A. From the simple fact I had tested them at the primary and I knew.

Q. Those you didn't know about did you test them by making them read a section of the Constitution and write it?—A. Well, no.

Q. Why didn't you?—A. From the simple fact I was threatened with the Federal law if I did.

Mr. GIDDINGS. Take the witness.

Cross-examination by Mr. MORGAN:

Q. Now, you say Mr. Burnsworth you didn't compel all the negroes to read and write the Constitution at the last general election as a test?—A. No, sir.

Q. Because of the fact you had tested most of them at the primary and knew whether or not they could read and write?—A. Yes, sir.

Q. That is right. How many of this 70 that you say voted had been tested by you in the primary?—A. I could not say exactly.

Q. About how many?—A. Well, I put all—most all—of them to the test at the primary.

Q. And those that you had tested at the primary you didn't require the test of them at the general election in November, 1912?—A. Nothing; only I would just ask them the question, from the simple fact I remembered whether or not the test at the primary.

Q. Now, then, about how many negroes did you test at the general election?—A. I think it was five.

Q. What was the result of that test?—A. They could not read and write, and I refused them a ballot.

Q. You say you lived out there 15 years?—A. Yes, sir.

Q. You know all those negroes, practically, don't you?—A. Well most of them; yes. Of course there is some floaters that comes and goes, but I am acquainted with all that is in there any length of time.

Q. Do you know Sam Fain?—A. Yes, sir.

Q. Where does he live?—A. I don't know now, but at that time he lived right there in the city of Arcadia.

Q. Did Fred Trent vote?—A. Yes, sir.

Q. Did Bob Harris vote?—A. How is that?

Q. Bob Harris.—A. I don't know him.

Q. Did a man by the name of Fox vote?—A. I don't know him.

Q. Did Henry Burton?—A. Yes, sir.

Q. Did Henry Grissom?—A. Yes, sir.

Q. Now, who did this testing out there, Mr. Burnsworth?—A. I did it myself, most of it.

Q. So you tested five?—A. I think it was five.

Q. And turned those down?—A. Yes, sir.

Q. And the balance of the negroes who voted, you knew them, and had tested them at the primary election?—A. Yes, sir.

Q. And let them vote. That is all.

Mr. GIDDINGS. That is all.

Mr. MORGAN. Mr. Burnsworth, you are a Democrat, are you not?

A. Yes, sir.

Mr. MORGAN. That is all.

Mr. GIDDINGS. That is all.

C. E. BURNSWORTH.

Subscribed and sworn to before me this 5th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

And thereupon, by consent of parties, the hearing of this matter was continued until to-morrow afternoon at 1.30.

February 13, 1913, 1.30 p. m., hearing convened and, by consent of parties, adjourned until to-morrow morning at 9 o'clock.

February 14, 1913, 9 a. m., hearing convened.

E. A. RINGOLD recalled to the stand.

Direct examination by Mr. DORTCH:

Q. Mr. Ringold, as secretary of the county election board, have you any affidavits of challenged voters?—A. I have.

Q. They were given to you as secretary, were they?—A. They were.

Q. About how many have you, Mr. Ringold?

Mr. MORGAN. We object to that as incompetent, irrelevant, and immaterial, and not the best evidence.

A. Fourteen.

Q. Those 14 are the original affidavits, are they?—A. They are.

Mr. DORTCH. Comes now the contestant and offers in evidence the original 14 affidavits spoken of by Mr. Ringold and asks that the same be marked for identification.

(Marked Exhibits K1 to K14, inclusive.)

E. A. RINGOLD.

Subscribed and sworn to before me this 30th day of April, 1913.

[SEAL.]

MARY S. HILL, *Notary Public*.

My commission expires November 21, 1915.

Mr. MORGAN. Comes now the contestee and objects to the introduction in evidence of K1 to K14, inclusive, for the reason that the same are incompetent, irrelevant, and immaterial, and are not the best evidence, and for the reason that Exhibits K4 to 14, inclusive, are not challenged certificates of challenged voters, and for the reasons that there are no statements or allegations contained in the contestant's notice of contest respecting any affidavit or any certificates of challenged voters, and for the further reason that it has not been shown that the said alleged records have been safely kept, for the reason that it has not been shown in whose custody or care the said exhibits have been since the time that they were placed in the hands of the said witness, and there being

no showing that the said exhibits have been safely kept free from opportunity for change, mutilation, or alteration; and the contestee objects to the introduction in evidence of Exhibit 1 for the reason that the same is incompetent, irrelevant, and immaterial, and does not tend to prove or disprove any of the statements or allegations contained in the contestant's notice of contest, for the reason that the same is not what it purports to be and is not in the proper or legal or lawful form; and the contestee objects to the introduction in evidence of Exhibit 2 for the reason that the same is incompetent, irrelevant, and immaterial, and for the reason that the same is not signed nor the affiant sworn to before any proper officer, and for the reason that the same does not prove or tend to prove any of the statements or allegations contained in the contestant's notice of contest and is not the best evidence. And the contestee objects to the introduction of Exhibit K3 for the reason that the same is incompetent, irrelevant, and immaterial, and is not the best evidence, and not certified or sworn to before any proper officer. And the contestee objects to the introduction of K4 for the reason that the same is not competent, relevant, or material, and does not prove or tend to prove any statements or allegations contained in the contestant's notice of contest. And for the further reason that the said exhibit does not prove or tend to prove a disqualification of the said A. Thomas to vote. For the reason that the said exhibit and affidavit K4 contains the statement that said A. Thomas's grandfather on his side of the house and on his mother's side of the house were white men and legal voters, the said above statement showing that A. Thomas was, under the laws of the State of Oklahoma, a legal, qualified voter and entitled to vote at the general election held in November, 1912. And the contestee objects to the introduction in evidence of Exhibit K5 for the reason that the same is incompetent, irrelevant, and immaterial, and is an ex parte affidavit and is not the best evidence and as a repetition the said W. I. Davis having heretofore been called to give evidence before this notary in this hearing, and for the reason that the said affidavit is and does not constitute any proper return required or allowed by the laws of the State of Oklahoma; and the contestee objects to the introduction of Exhibit 6 for the reason that the same is incompetent, irrelevant, and immaterial, and does not tend to prove any statements or allegations contained in the contestant's notice of contest, the same being an ex parte affidavit, and for the reason that the said alleged amended return is not such a return as is required by or allowed by the laws of the State of Oklahoma, and for the further reason that the said persons who subscribed to the said affidavit or alleged amended return have already been before this notary public and testified on the hearing of this case, and for the reason that the same is repetition and not the best evidence, and for the reason that the introduction of the said Exhibit K6 gives this contestee no opportunity to cross-examine the said A. L. Moore, who purports to sign the same.

And the contestee objects to the introduction of Exhibit K7 for the reason that the same is incompetent, irrelevant, and immaterial and does not prove or tend to prove any of the statements or allegations contained in the contestant's notice of contest for the reason that the same is an ex parte affidavit and does not give this contestant any privilege or opportunity to cross-examine the said Louis Vorel, who purports to sign the said alleged amended return, and for the reason that the same is a repetition, and said Louis Vorel having heretofore testified in this matter, and for the reason that the same is not such a return as is contemplated by or required by the laws of the State of Oklahoma.

And the contestee objects to the introduction in evidence of Exhibit K8 for the reason that the same is incompetent, irrelevant, and immaterial and does not prove or tend to prove any of the statements or allegations contained in the contestant's notice of contest and for the reason that the same is an ex parte affidavit and does not give this contestee any privilege or opportunity to cross-examine the said C. E. Burnsworth, who purports to sign the same regarding the allegations therein contained; and for the further reason that the said alleged amended return is not such a return as is contemplated or required by the laws of the State of Oklahoma.

And this contestee further objects to the introduction of Exhibit K8 for the reason that the same is a repetition, said C. E. Burnsworth having already testified in this hearing.

The contestee objects to the introduction of Exhibit K9 for the reason that the same is incompetent, irrelevant, and immaterial and as not proving or tending to prove any statements or allegations contained in the contestant's notice of contest and for the reason that the same is an ex parte affidavit, and for the reason that the introduction of the same in this manner gives this con-

testee no opportunity to cross-examine the said person signing the same, to wit, F. H. Morris, respecting the allegations therein contained, and for the further reason that the same is a repetition, the said F. H. Morris having already testified in this hearing.

And the contestee objects to the introduction in evidence of Exhibit K10 for the reason that the same is incompetent, irrelevant, and immaterial and for the reason that the same does not prove or tend to prove any statements or allegations contained in the contestant's notice of contest, and for the reason that the same is an ex parte affidavit and does not give the contestee herein an opportunity or privilege of cross-examining the said persons so signing the same as to the statements and allegations therein contained, and for the reason that the same, while purporting to be an amended return, is not such a return or amended return as is contemplated by or required by or allowed by the laws of the State of Oklahoma.

And the contestee objects to the introduction in evidence of Exhibit K11 for the reason that the same is incompetent, irrelevant, and immaterial and is not proving or tending to prove any of the statements or allegations contained in the contestant's notice of contest for the reason that the same is an ex parte affidavit and not giving this contestee the privilege or opportunity of cross-examining the said G. W. Swails, who purports to sign the same, regarding the statements or allegations therein contained, and for the reason that the same is not a return or an amended return or any sort of return required by or contemplated by or allowed by the laws of the State of Oklahoma.

And the contestee objects to the introduction in evidence of Exhibit K 12 for the reason that the same is incompetent, irrelevant, and immaterial, and for the reason that the same does not prove or tend to prove any of the statements or allegations contained in the contestant's notice of contest and for the reason that the same is an ex parte affidavit and does not give this contestee the privilege or opportunity of cross-examining the said F. H. Morris, who purports to sign the same regarding the statements and allegations therein contained, and for the reason that the same is not a return or such a return or statement as is required by, allowed by, or contemplated by the laws of the State of Oklahoma.

And this contestee objects to the introduction in evidence of Exhibit K 13 for the reason that the same is incompetent, irrelevant, and immaterial, and as not proving or tending to prove any statements or allegations contained in the contestant's notice of contest, and for the reason that the same is an ex parte affidavit which does not give or allow this contestee the privilege or opportunity of cross-examining the witness as to the statements or allegations therein contained, and for the further reason that the same is not such a return or amended return or statement as is required by or contemplated by or prescribed by the laws of the State of Oklahoma.

And the contestee objects to the introduction in evidence of Exhibit K 14 for the reason that the same is incompetent, irrelevant, and immaterial, and as not proven or tending to prove any of the statements or allegations contained in the contestant's notice of contest, and for the reason that the same is an ex parte affidavit which does not allow this contestee or give this contestee the privilege or opportunity of cross-examining the party purporting to sign the same, to wit, Louis Vorel, as to the statements or allegations contained in said affidavit, and for the further reason that the said affidavit is not such a return or amended return or statement as is contemplated by or required by or allowed by the laws of the State of Oklahoma.

And this contestee further objects to the introduction in evidence of Exhibits K 1 to 14, inclusive, for the reason that the same have not been properly identified, and for the further reason that the signatures thereto have not been properly identified or sworn to or shown by any evidence, and for the further reason that it has not been shown that said exhibits were delivered by those signing the same to the witness or that the same are any part of the records of the county election board of Oklahoma County, State of Oklahoma, or that they should constitute any part of the election returns of Oklahoma County, State of Oklahoma.

And this contestee objects to the introduction in evidence of Exhibits K 1 to 14, inclusive, for the reason that the same are all ex parte affidavits and from their nature are such that this contestee is not allowed the right, privilege, or opportunity of cross-examining the persons purporting to sign the same as to the truth or falsity or the circumstances surrounding the statements and allegations contained in said exhibits.

And this contestee further objects to the introduction in evidence of Exhibits K 1 to 14, inclusive, for the reason that the same or a greater part thereof are legal conclusions of the persons signing the same and are made up of opinions of the parties purporting to sign the same.

And this contestee at this time moves to strike from the records said Exhibit K 1 to 14, inclusive, for each, every, and all of the reasons heretofore stated.

Mr. GIDDINGS. That is all.

Cross-examination by Mr. MORGAN:

Q. Mr. Ringold, I will ask you if Exhibit K 1 was handed to you by Anderson Harrelson?—A. To the best of my knowledge it was handed to me by C. E. Burnsworth.

Q. Who handed you Exhibit K 4?—A. I. N. Spears; I would not be sure about that initial. Ain't he on here somewheres in affidavit?

Q. No.—A. Well, it is J. N. or I. N. Spears; I forget.

Q. Now, who gave you Exhibit K 5?—A. E. L. Sheldon.

Q. Who is he?—A. Of Edmond.

Q. Who is he?—A. He was a candidate for member of the legislature on the Democratic ticket from Oklahoma County.

Q. When did he hand you that?—A. About the 16th day or 18th day of November, 1912.

Q. It was not given you, then, by Mr. Davis, who signed the same?—A. Not by him personally.

Q. You would not be sure that was his signature on there at all, would you?—A. I didn't see him sign it.

Q. You would not be certain that that is his signature there, would you?—A. I am reasonably certain; it looks very much like it.

Q. You would not swear to it positively?—A. I had his signatures on other papers.

Q. You would not swear to it positively, though would you?—A. All I can say I could not swear that he signed it from the facts that I didn't see him sign it.

Q. These other affidavits here were also—Exhibits K 5 to K 14, inclusive, were all given you by this man Sheldon, were they not?—A. I don't remember if all of them were or not. There were some several of those handed in by inspectors from the various precincts. Some handed me by Mr. Sheldon and some were handed me—two, I believe, were handed me by J. L. Robinson, of Edmond.

Q. Where have these exhibits been since they were handed to you?—A. They have been in my possession and my office most of the time.

Q. When did they leave your possession?—A. About 10 days ago; between the 1st and 5th of this month.

Q. Who did you give them to?—A. I don't remember who called at my office for the papers with a note from Judge Sam Hooker wanting to borrow these papers in preparing his answer to a contest suit now pending in the superior court of this county between Bob Parman and W. W. Storms, who were candidates on the Democratic and Republican ticket for county clerk of this county.

Q. When did these come into your possession?—A. Along the latter—some of them—

Q. I mean again; after you parted with possession, when did they come into your possession again?—A. This morning.

Q. Who gave them to you?—A. The clerk in Judge Tom Chamber's office.

Q. The young boy there?—A. Yes; I don't know his name; a young man; I don't know his name; I didn't ask him.

Q. You haven't seen them from the time you gave them to some one coming from Sam Hooker's office until this morning you received them from this clerk in Tom Chamber's office?—A. I had not.

Q. You don't know of your own personal knowledge concerning the statements and allegations contained in these exhibits, do you; of your own personal knowledge?—A. I do not.

Q. Then you could not swear of your own—according to your own personal knowledge concerning the truth or falsity of the statements contained in these affidavits here?—A. I could not.

Q. You don't know Anderson Harrelson, do you?—A. I do not.

Q. Do you know Sam Fahan?—A. I do not.

Q. Do you know Fred Trent?—A. I do not.

Q. Do you know A. Thomas?—A. I do not.

Q. Do you know P. M. Vorel?—A. No, sir; not personally; I know him—

Q. Do you know John Anderson?—A. I do not.

Q. You would not know his signature if you saw it?—A. No, sir.

Q. Do you know John Roaten?—A. I do.

Q. What is the politics, if you know, of C. E. Brunsworth, inspector in Deep Fork Township?—A. Supposed to be a Democrat.

Q. W. I. Davis—what political party does he belong to?—A. Supposed to be a Democrat.

Q. A. L. Moore—what political party does he belong to?—A. Who?

Q. A. L. Moore.—A. I don't know.

Q. Do you know him?—A. Not personally.

Q. Do you know the political faith of Louis Vorel?—A. He is supposed to be a Democrat.

Q. F. H. Morris—do you know to what political party he belongs?—A. I do not.

Q. He is the clerk in Deep Fork Township?—A. I don't know whether he is clerk or judge.

Q. Do you know G. W. Swails?—A. I do.

Q. To what political party does he belong?—A. He is supposed to be a Democrat.

Mr. MORGAN. That is all.

Redirect examination by Mr. DORTCH:

Q. Mr. Ringold, I will ask you to examine Exhibits K 1 to K 14 and see whether or not they are in the condition at present as they were when they were first given to you?

Mr. MORGAN. Contestee objects to that for the reason that the same is incompetent, irrelevant, immaterial, and leading and suggestive, and calling for a conclusion of the witness and an opinion of the witness, and for the further reason that the same is not the proper manner in which the identity of exhibits may be shown.

A. They are.

Mr. DORTCH. That is all.

Recross-examination by Mr. MORGAN:

Q. How can you be sure they are exactly in the same condition as they were when they first came into your hands?—A. For the reason that I looked over these affidavits several times, in fact a number of times while they were in my possession and I am familiar with the contents of each affidavit.

Q. You say you looked over them a number of times, how many—in Exhibit K 13 I will ask you how many negroes the affiant there claims voted in said voting place?

Mr. DORTCH. We object to that as incompetent, irrelevant, immaterial, and not proper cross-examination.

Q. So that if the affidavit should show there were only three negroes voted there you would not be sure but that when it first came in to you it said 30, could you?

Mr. DORTCH. We object to that as argumentative and not cross-examination.

A. I would certify that the affidavit was in the same condition as it was at the time when I received it.

Mr. MORGAN. Read the witness the question.

(Question read.)

A. Yes, sir; I am sure that it didn't say 30.

Q. And if Exhibit 9 shows that the affiant therein claims that there were 40 negroes voted in the township set forth therein, you could not be sure but what at the time it came to you it only showed 4 negroes voted therein, could you?

Mr. DORTCH. Objected to as argumentative and not proper cross-examination.

A. Yes, sir; I am sure that none of the affidavits contained as many as 30 or 40 names in the affidavit at the time they were filed with me.

Q. Where did you keep these affidavits while you had them in your possession?—A. They were locked in my desk.

Q. You sometimes left your desk open when you came out of the office?—A. I sometimes left my desk open, but always locked the front door of the office when I left it.

Q. Now, could you be sure, Mr. Ringold, that there has been no time since these came into your possession during the time you had them in your office

that your desk has not been opened and unlocked and your door also open?—A. There is nobody has a key to my front door except myself.

Q. Do you swear positively that all times during the time that these were in your possession and in your desk, as you say, that the desk has either been locked or your door locked?—A. Yes, sir.

Q. To your office.—A. Yes, sir.

Q. As a matter of fact, Mr. Ringold, about six weeks ago didn't I not come to your office and find your door leading out into a hallway from your office open and your desk also open, and did you not upon your return find a note from me on your desk saying that I was leaving certain documents there with you?

Mr. DORTCH. Objected to as not proper cross-examination.

Q. And did I not leave some documents there at that time, to wit, the list of the inspectors and officers in Oklahoma County at the last election?—A. I found such a paper on my desk, but supposed it was put there by the gentleman who worked in my office with myself.

Q. He has a key to the desk, has he?—A. No; not to my desk.

Q. He has a key to your door?—A. Yes; he has a key to the door of the office.

Q. Who is the party?—A. R. A. Wooldridge.

Mr. MORGAN. Alright.

Mr. DORTCH. Is Mr. Wooldridge a responsible and reputable party, Mr. Ringold?

Mr. MORGAN. Wait a minute; we object to that as incompetent, irrelevant, immaterial, leading, and suggestive.

A. I trust him.

Mr. MORGAN. Leading and suggestive and calling for a conclusion and opinion of the witness.

Mr. DORTCH. That is all.

EXHIBIT A.

TALK IT OVER WITH YOUR WIFE, MR. ELECTION OFFICIAL, AND REMEMBER THAT YOU WILL GO TO THE PENITENTIARY.

If you violate the Federal election laws, and not Gov. Cruce nor his brother, Attorney A. C. Cruce. You will remember that the latter defended Beall and Quinn, who last year were convicted in the United States court at Enid and sentenced to the penitentiary for violating the Federal election law, and the State paid the attorneys in these cases about \$14,000 for defending these two men. This averages about \$7,000 per case. It is not likely that the people of this State, already overburdened with taxes, will be willing to continue to pay out \$7,000 every time an election official violates the Federal statutes. The people are not sufficiently able to enrich the governor's brother, Attorney A. C. Cruce. Besides, what's the use? Where conviction is sure, there is nothing gained by paying out big sums of money for attorney fees. That is to say, there is nothing gained by anyone but the attorney.

EXHIBIT B.

DEPARTMENT OF JUSTICE,
OFFICE OF THE UNITED STATES ATTORNEY,
WESTERN DISTRICT OF OKLAHOMA,
Guthrie, October 31, 1912.

Mr. FRED A. WAGONER.

Deputy County Attorney, Chandler, Okla.

DEAR SIR: I have your letter asking whether at the coming general election the precinct election officers can enforce the law commonly termed the grandfather law and escape punishment therefor in the Federal courts on a showing of good faith in enforcing said law. I presume your question has arisen on account of the apparent conflict between the decision of the Supreme Court of the State of Oklahoma and the United States District Courts for the Eastern and Western Districts of Oklahoma on the constitutionality of the law, the State supreme court having held the law constitutional, while the two United States courts in the State have held it unconstitutional and void.

It must be borne in mind that this all involves purely State matters as well as Federal matters, and in considering the same these two phases of the law

must be kept in mind. As to the purely State questions involved in the law, I do not express any opinion, the same not being within the jurisdiction of this office, and this opinion is directed solely to the Federal question involved; that is, the application of the grandfather law to negroes who, on account of race, color, and previous condition of servitude, are not permitted to vote without submitting to certain tests of reading and writing. Nor shall I argue the question of the constitutionality of the law, for the reason that after very extensive argument by some of the best legal talent of the State it has already been in positive terms declared unconstitutional by the two United States district courts in this State, which decisions are now the law of this State as far as the Federal questions therein involved are concerned, having never been reversed or modified.

Knowing this, that the Federal courts, having jurisdiction over the entire State, have declared the law to be unconstitutional and of no force and effect, the question arises whether the precinct election officers can enforce it against negroes on account of their race and color, and then, when prosecuted in a Federal court for doing so, defend the prosecution on a plea of good faith in enforcing the law. The question of good faith must be determined with reference to the decision of the courts on the subject and having jurisdiction thereof, so there can be no good faith in acting in direct conflict with the known decisions of the courts, although in the absence of any such decisions such defense might be made. In the case against Beall and Quinn, who were convicted in the Federal court at Enid, in 1911, for violating section 19 of the Federal Criminal Code in enforcing the grandfather law at the general election in November, 1910, the defense of good faith was attempted, although without success, as the verdict of the jury disclosed. However, in that case at the time the acts were committed which caused a prosecution; that is, in November, 1910, no Federal court had passed upon the law.

Furthermore, all precinct election officers are quasijudicial capacity, and being officers of inferior and restricted jurisdiction, are all bound by the decisions of the Federal courts declaring the law unconstitutional when applying the same to negroes desiring to vote for Members of Congress and electors for President, and the defense of good faith will not protect them from prosecution for enforcing the law in direct conflict with the Federal decisions.

Respectfully,

HOMER N. BOARDMAN,
United States Attorney.

C.—J. M. H., February 6, 1913.

(Text illegible.)

D.—J. M. H., February 6, 1913.

(Word illegible.) The terms of all officers of the State government elected at the time of the adoption of this constitution shall begin up the admission of any of the States into the Union.

ALICK MORGAN.

EXHIBIT E.

(Exhibit E (original folios 176-379) is a copy of the entire registration list of the city of Oklahoma City, Okla., preceding the general election in November, 1912, and is omitted in printing.)

EXHIBIT F.

Official ballot.

No. 1. Name, Robt. L. Scarborough; address, southeast Sixth and Mayland; street No., —. If voter is challenged, the clerk shall write "challenged" in this space———. If voter subscribed to an affidavit, the clerk shall write

"sworn" in this space----- If for any reason the ballot is spoiled or not voted, the clerk shall write "spoiled" in this space-----.

(Here follows Nos. 2-208 (original folios 381-450), which being similar to the above are omitted in printing.)

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 6 of ward No. 2, Oklahoma City, Oklahoma County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, seventy-four (74).
P. J. Loewen, Republican, one hundred three (103).
C. E. Hedgpeth, Socialist, seven (7).

For presidential electors, State at large:

Robert A. Baird, Democrat, sixty-nine (69).
J. W. Bolen, Democrat, sixty-nine (69).
H. H. Brenner, Democrat, sixty-nine (69).
Joseph W. Foster, Democrat, sixty-nine (69).
W. W. Hastings, Democrat, sixty-nine (69).
Sam. Massingale, Democrat, sixty-nine (69).
S. H. Mayes, Democrat, sixty-nine (69).
David Ratner, Democrat, sixty-nine (69).
J. D. Scott, Democrat, seventy (70).
J. C. Thompson, Democrat, sixty-nine (69).
George M. Flick, Republican, one hundred eleven (111).
Marshall W. Hinch, Republican, one hundred eleven (111).
M. P. Howser, Republican, one hundred eleven (111).
H. L. Hix, Republican, one hundred eleven (111).
Lindsey L. Long, Republican, one hundred twelve (112).
W. L. McWilliams, Republican, one hundred thirteen (113).
Ret Millard, Republican, one hundred eleven (111).
George E. Nickel, Republican, one hundred eleven (111).
Joseph G. Ralls, Republican, one hundred eleven (111).
W. A. Williams, Republican, one hundred eleven (111).
E. B. Barnes, Socialist, seven (7).
C. B. Boylan, Socialist, seven (7).
A. R. Bradshaw, Socialist, seven (7).
W. H. Davis, Socialist, seven (7).
R. E. Dooley, Socialist, seven (7).
Allen Fields, Socialist, seven (7).
Lewis B. Irvin, Socialist, seven (7).
I. N. Johnson, Socialist, seven (7).
A. W. Renshaw, Socialist, seven (7).
Thos. W. Woodrow, Socialist, seven (7).
M. Simpson Allen, Prohibitionist, one (1).
J. E. Brewer, Prohibitionist, one (1).
Chas. Brown, Prohibitionist, one (1).
S. H. Brown, Prohibitionist, one (1).
Taylor H. Ebersole, Prohibitionist, one (1).
G. M. Hadduck, Prohibitionist, one (1).
Chas. O. Jennings, Prohibitionist, one (1).
J. H. Medaris, Prohibitionist, one (1).
G. E. Rouch, Prohibitionist, one (1).
H. E. Strickler, Prohibitionist, one (1).

For United States Senator:

Robt. L. Owen, Democrat, seventy-nine (79).
J. T. Dickerson, Republican, ninety-nine (99).
John G. Wills, Socialist, seven (7).

For Congressman, State at large:

Wm. H. Murray, Democrat, seventy-five (75).
Joe B. Thompson, Democrat, seventy-five (75).
Claude Weaver, Democrat, eighty (80).
Alvin D. Allen, Republican, one hundred three (103).
Jas. L. Brown, Republican, one hundred three (103).

For Congressman, State at large—Continued.

Emory D. Brownlee, Republican, one hundred one (101).

Oscar Ameringer, Socialist, seven (7).

J. T. Cumbie, Socialist, seven (7).

J. Luther Langston, Socialist, eight (8).

For justice supreme court, first district:

John B. Turner, Democrat, seventy-two (72).

Charles Alston Cook, Republican, one hundred seven (107).

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat, seventy-three (73).

George T. Ralls, Republican, one hundred six (106).

E. S. Hurt, Socialist, seven (7).

For Representative in Congress, second district:

J. J. Carney, Democrat, seventy (70).

Dick T. Morgan, Republican, one hundred nine (109).

P. D. McKenzie, Socialist, six (6).

For State senator, fourteenth district:

Ben. F. Wilson, Democrat, seventy-one (71).

John Threadgill, Republican, one hundred seven (107).

Geo. E. Owen, Socialist, seven (7).

For representative, first district:

E. L. Shelden, Democrat, seventy (70).

C. H. De Ford, Republican, one hundred five (105).

S. T. Bennett, Socialist, seven (7).

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, twenty (20).

No, one hundred fifty-one (151).

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, ninety-five (95).

No, fifty (50).

We further certify that there were two spoiled ballots, the consecutive numbers of which were from and including numbers 209, two hundred nine to and including number five hundred thirty-three (533).

R. E. BROWNELL,

W. L. OATES,

HENRY A. HOFFMAN,

R. E. SCAMMELL,

Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912. This oath may be administered by the judge, clerk, or inspector.

EXHIBIT G.

Official ballot.

No. 1. Name. O. H. Buchanan; address, 216 North Oklahoma; street No. 216 North Oklahoma. If voter is challenged, the clerk shall write "challenged" in this space----- If voter subscribed to an affidavit, the clerk shall write "sworn" in this space----- If for any reason the ballot is spoiled or not voted, the clerk shall write "spoiled" in this space-----

(Here follows Nos. 2-268 (original folios 453-533) which being similar to the above are omitted in printing.)

Certificate of vote.

We, the undersigned official counters for the election held at precinct 9 of ward 2, Oklahoma Township of Oklahoma County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 to 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, seventy.

P. J. Loewen, Republican, one hundred forty-six.

C. E. Hedgpeth, Socialist, twenty-two.

For Presidential electors, State at large:

Robert A. Baird, Democrat, seventy-one.
 J. W. Bolen, Democrat, seventy-one.
 H. H. Brenner, Democrat, sixty-eight.
 Joseph W. Foster, Democrat, seventy.
 W. W. Hastings, Democrat, seventy.
 Sam Massingale, Democrat, sixty-seven.
 S. H. Mayes, Democrat, sixty-nine.
 David Ratner, Democrat, sixty-eight.
 J. D. Scott, Democrat, seventy.
 J. S. Thompson, Democrat, sixty-eight.
 George M. Flick, Republican, one hundred forty-nine.
 Marshall W. Hinch, Republican, one hundred forty-six.
 M. P. Howser, Republican, one hundred forty-seven.
 H. L. Hix, Republican, one hundred forty-five.
 Lindsey L. Long, Republican, one hundred forty-four.
 W. L. McWilliams, Republican, one hundred forty-six.
 Ret Millard, Republican, one hundred forty-four.
 George E. Nickel, Republican, one hundred forty-six.
 Joseph G. Ralls, Republican, one hundred forty-four.
 W. A. Williams, Republican, one hundred forty-six.
 E. B. Barnes, Socialist, twenty-one.
 C. B. Boylan, Socialist, twenty.
 A. R. Bradshaw, Socialist, twenty.
 W. H. Davis, Socialist, twenty.
 R. E. Dooley, Socialist, twenty-one.
 Allen Fields, Socialist, twenty-three.
 Lewis B. Irvin, Socialist, twenty-three.
 I. N. Johnson, Socialist, twenty-one.
 A. W. Renshaw, Socialist, twenty-one.
 Thos. W. Woodrow, Socialist, twenty-two.
 M. Simpson Allen, Prohibitionist, two.
 J. E. Brewer, Prohibitionist, one.
 Chas. Brown, Prohibitionist, one.
 S. H. Brown, Prohibitionist, one.
 Taylor H. Ebersold, Prohibitionist, one.
 G. M. Hadduck, Prohibitionist, one.
 Chas. O. Jennings, Prohibitionist, one.
 J. H. Medaris, Prohibitionist, one.
 G. E. Rouch, Prohibitionist, one.
 H. E. Strickler, one.

For United States Senator:

Robt. L. Owen, Democrat, seventy-nine.
 J. T. Dickerson, Republican, one hundred forty-one.
 John G. Wills, Socialist, twenty-one.

For Congressman, State at large:

Wm. H. Murray, Democrat, sixty-nine.
 Joe B. Thompson, Democrat, sixty-five.
 Claude Weaver, Democrat, seventy-three.
 Alvin D. Allen, Republican, one hundred thirty-nine.
 Jas. L. Brown, Republican, one hundred forty-one.
 Emory D. Brownlee, Republican, one hundred thirty-five.
 Oscar Ameringer, Socialist, twenty-seven.
 J. T. Cumbie, Socialist, twenty-four.
 J. Luther Langston, Socialist, twenty-seven.

For justice supreme court, first district:

John B. Turner, Democrat, seventy-four.
 Charles Alston Cook, Republican, one hundred thirty-nine.

For judge criminal court appeals, southern district:

Henry Mr. Furman, Democrat, sixty-nine.
 George T. Ralls, Republican, one hundred forty-five.
 E. S. Hurt, Socialist, twenty-five.

For Representative in Congress, second district:

J. J. Carney, Democrat, seventy.
 Dick T. Morgan, Republican, one hundred fifty-one.
 P. D. McKenzie, Socialist, twenty-three.

For senator, fourteenth district:

Ben F. Wilson, Democrat, sixty-nine.
John Threadgill, one hundred fifty-three.
Geo. Owen, Socialist, twenty-two.

For representative:

E. L. Sheldon, Democrat, sixty-nine.
C. H. De Ford, Republican, one hundred forty-six.
S. T. Bennett, Socialist, twenty-two.

For State Question No. 40, initiative petition No. 25:

Shall it be adopted?—

Yes, forty-one.

No, one hundred thirty-one.

State Question No. 45, referendum petition No. 17½:

Shall the proposed amendment be adopted?—

Yes, seventy.

No, eighty.

We further certify that there were 10 spoiled ballots, the consecutive numbers ———, and there were — unused ballots, numbers of which were from and including numbers ——— to and including number —.

H. M. SMITH,
TONY BRUZA,
C. A. DRAKE,
E. J. RASBACH,
Official Counters.
J. E. LUCAS.

Subscribed and sworn to before me this 5th day of November, A. D. 1912.
This oath may be administered by the judge, clerk, or inspector.

EXHIBIT H.

Official ballot.

No. 1. Name, J. C. Whittaker; address, 12 South Klein Street, Oklahoma City.
If voter is challenged, the clerk shall write "Challenged" in this space
----- If voter subscribed to an affidavit, the clerk shall write "Sworn"
in this space ----- If for any reason the ballot is spoiled or not voted,
the clerk shall write "Spoiled" in this space -----

(Here follows Nos. 2-382 (original folios 537-643), which being similar to the
above are omitted in printing.)

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 9
of ward 3, Oklahoma City, Oklahoma County, on Tuesday, the 5th day of
November, A. D. 1912, hereby certify that the correct number of votes cast at
said precinct in said election for the various candidates and for and against
State questions Nos. 40 and 45 voted on, is herein set forth in written words:

For corporation commissioner:

J. E. Love, Democrat	186
P. J. Loewen, Republican	132
C. E. Hedgpeth, Socialist	21

For presidential electors, State at large:

Robert A. Baird, Democrat	179
J. W. Bolen, Democrat	178
H. H. Brenner, Democrat	177
Joseph W. Foster, Democrat	180
W. W. Hastings, Democrat	180
Sam Massingale, Democrat	180
S. H. Mayes, Democrat	179
David Ratner, Democrat	179
J. D. Scott, Democrat	181
J. C. Thompson, Democrat	179
George M. Flick, Republican	144
Marshall W. Hinch, Republican	130
M. P. Howser, Republican	141
H. L. Hix, Republican	140

For presidential electors, State at large—Continued.

Lindsey L. Long, Republican	140
W. L. McWilliams, Republican	141
Ret Millard, Republican	141
George E. Nickel, Republican	139
Joseph G. Ralls, Republican	140
W. A. Williams, Republican	141
E. B. Barnes, Socialist	24
C. B. Boylan, Socialist	25
A. R. Bradshaw, Socialist	26
W. H. Davis, Socialist	25
R. E. Dooley, Socialist	25
Allen Fields, Socialist	24
Lewis B. Irvin, Socialist	25
I. N. Johnson, Socialist	25
A. W. Renshaw, Socialist	25
Thomas W. Woodrow, Socialist	25
M. Simpson Allen, Prohibition	4
J. E. Brewer, Prohibition	4
Chas. Brown, Prohibition	4
S. H. Brown, Prohibition	4
Taylor H. Ebersole, Prohibition	4
G. M. Hadduck, Prohibition	4
Chas. O. Jennings, Prohibition	4
J. H. Medaris, Prohibition	4
G. E. Rouch, Prohibition	4
H. E. Strickler, Prohibition	4

For United States Senator:

Robert L. Owen, Democrat	206
J. T. Dickerson, Republican	120
John G. Wills, Socialist	22

For Congressman, State at large:

William H. Murray, Democrat	181
Joe B. Thompson, Democrat	183
Claude Weaver, Democrat	189
Alvin D. Allen, Republican	134
James L. Brown, Republican	134
Emory D. Brownlee, Republican	125
Oscar Ameringer, Socialist	27
J. T. Cumbie, Socialist	24
J. Luther Langston, Socialist	23

For justice supreme court, first district:

John B. Turner, Democrat	182
Charles Alston Cook, Republican	136

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat	184
George T. Ralls, Republican	135
E. S. Hurt, Socialist	26

For Representative in Congress:

J. J. Carney	191
Dick T. Morgan	142
P. D. McKenzie	23

For State senator, ——— district:

Ben Wilson	175
John Threadgill	150
Gill Owne	23

For representative:

D. B. Welty	176
A. C. Baxter	140
M. F. Parker	29

State question No. 40, initiative petition No. 25:

Shall it be adopted?—	
Yes	33
No	270

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?—	
Yes	147
No	106

We further certify that there were 5 spoiled ballots, the consecutive numbers of which were Nos. 181, and there were 419 unused ballots, the consecutive numbers of which were from and including Nos. 382 and to and including No. 800.

FRANK ANDRES,
WM. L. SCHNUR,
W. A. TUCKER,
FRANK STOUT,
Official Counters.
S. E. DAVIS.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.
This oath may be administered by the clerk.

EXHIBIT I.

Official ballot.

No. 1. Name, R. N. Johnson; address, No. 409 Culbertson Street. If voter is challenged the clerk shall write "Challenged" in this space ----- If voter subscribed to an affidavit, the clerk shall write "Sworn" in this space ----- If for any reason the ballot is spoiled or not voted, the clerk shall write "Spoiled" in this space -----

(Here follows Nos. 2-384 (original folios 647-772). which being similar to the above are omitted in printing.)

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 7, of ward 3, Township of Oklahoma County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, two hundred thirty-one (231).
P. J. Loewen, Republican, ninety-nine (99).
C. E. Hedgpeth, Socialist, ten (10).

For presidential electors, State at large:

Robert A. Baird, Democrat, two hundred five (205).
J. W. Bolen, Democrat, two hundred nine (209).
H. H. Brenner, Democrat, two hundred seven (207).
Joseph W. Foster, Democrat, two hundred seven (207).
W. W. Hastings, Democrat, two hundred seven (207).
Sam Massingale, Democrat, two hundred six (206).
S. H. Mayes, Democrat, two hundred five (205).
David Ratner, Democrat, two hundred six (206).
J. D. Scott, Democrat, two hundred six (206).
J. C. Thompson, Democrat, two hundred nine (209).
George M. Flick, Republican, one hundred thirty-two (132).
Marshall W. Hinch, Republican, one hundred thirty (130).
M. P. Howser, Republican, one hundred thirty (130).
H. L. Hix, Republican, one hundred thirty (130).
Lindsey L. Long, Republican, one hundred thirty-two (132).
W. L. McWilliams, Republican, one hundred thirty-one (131).
Ret Millard, Republican, one hundred thirty-one (131).
George E. Nickel, Republican, one hundred thirty-one (131).
Joseph E. Ralls, Republican, one hundred thirty-one (131).
W. A. Williams, Republican, one hundred thirty-one (131).
E. B. Barnes, Socialist, ten (10).
C. B. Boylan, Socialist, nine (9).
A. R. Bradshaw, Socialist, nine (9).
W. H. Davis, Socialist, nine (9).
R. E. Dooley, Socialist, ten (10).
Allen Fields, Socialist, nine (9).
Lewis B. Irvin, Socialist, nine (9).

For presidential electors, State at large—Continued.

I. N. Johnson, Socialist, ten (10).
 A. W. Renshaw, Socialist, nine (9).
 Thos. W. Woodrow, Socialist, nine (9).
 M. Simpson Allen Prohibitionist.
 J. E. Brewer, Prohibitionist.
 Chas. Brown, Prohibitionist, one (1).
 S. H. Brown, Prohibitionist.
 Taylor H. Ebersole, Prohibitionist.
 G. M. Hadduck, Prohibitionist.
 Chas. O. Jennings, Prohibitionist.
 J. H. Medaris, Prohibitionist, one (1).
 G. E. Rouch, Prohibitionist.
 H. E. Strickler, Prohibitionist.

For United States Senator:

Robt. L. Owen, Democrat, two hundred twenty-seven (227).
 J. T. Dickerson, Republican, one hundred (100).
 John G. Wills, Socialist, ten (10).

For Congressman, State at large:

Wm. H. Murray, Democrat, two hundred sixteen (216).
 Joe B. Thompson, Democrat, two hundred nineteen (219).
 Claude Weaver, Democrat, two hundred thirty-five (235).
 Alvin D. Allen, Republican, one hundred fifteen (115).
 Jas. L. Brown, Republican, one hundred eleven (111).
 Emory D. Brownlee, Republican, one hundred nine (109).
 Oscar Ameringer, Socialist, twelve (12).
 J. T. Cumbie, Socialist, eleven (11).
 J. Luther Langston, socialist, twelve (12).

For justice supreme court, first district:

John B. Turner, Democrat, two hundred twenty (220).
 Charles Alston Cook, Republican, one hundred fifteen (115).

For judge criminal court appeals southern district:

Henry M. Furman, Democrat, two hundred twenty-one (221).
 George T. Ralls, Republican, one hundred thirteen (113).
 E. S. Hurt, Socialist, seven (7).

For Representative in Congress, second district:

J. J. Carney, two hundred twenty (220).
 Dick T. Morgan, one hundred twenty-two (122).
 P. D. McKenzie, nine (9).

For State senator, fourteenth district:

Ben. F. Wilson, two hundred five (205).
 John Threadgill, one hundred forty-two (142).
 Geo. E. Owen, nine (9).

For Representative, second district:

Hugh H. Randall, two hundred nine (209).
 J. H. Norton, one hundred twenty-nine (129).
 Bert Dixon, twelve (12).

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, fourteen (14).

No, three hundred sixteen (316).

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, one hundred fifty-nine (159).

No, one hundred four (104).

We further certify that there were ten (10) spoiled ballots, the consecutive numbers of which were numbers ———, and there were five hundred fifty (550) unused ballots, the consecutive numbers of which were from and including numbers three hundred eighty-three (383) to and including number nine hundred thirty-three (933).

JNO. E. BALDWIN,
 CLIFFORD I. MYERS,
 EDWARD A. WAGENER,
 A. R. GOMLEY,

Official Counters.

Subscribed and sworn to before me this the 5th day of November A. D. 1912.
 This oath may be administered by the judge, clerk, or inspector.

EXHIBIT J.

Official ballot.

No. 1. Name, C. E. M. Clavin; address, 111 West Frisco Street, Oklahoma City. If voter is challenged the clerk shall write "challenged" in this space _____. If voter subscribed to an affidavit the clerk shall write "sworn" in this space _____. If for any reason the ballot is spoiled or not voted, the clerk shall write "Spoiled" in this space _____.

(Here follows Nos. 1-33S (original folios 775-S93), which being similar to the above are omitted in printing.)

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. — of — township of — county, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 50 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, one hundred forty-seven.
P. J. Loewen, Republican, one hundred twenty-nine.
C. E. Hedgpeth, Socialist, twenty.

For presidential electors, State at large:

Robert A. Baird, Democrat, one hundred forty-seven.
J. W. Bolen, Democrat, one hundred forty-three.
H. H. Brenner, Democrat, one hundred forty-two.
Joseph W. Foster, Democrat, one hundred forty-two.
W. W. Hastings, Democrat, one hundred forty-two.
Sam Massingale, Democrat, one hundred forty-one.
S. H. Mayes, Democrat, one hundred forty-one.
David Ratner, Democrat, one hundred forty-two.
J. D. Scott, Democrat, one hundred forty-one.
J. C. Thompson, Democrat, one hundred forty-one.
George M. Flick, Republican, one thirty-four.
Marshall W. Hinch, Republican, one thirty-three.
M. P. Howser, Republican, one hundred thirty-six.
H. L. Hix, Republican, one hundred thirty-four.
Lindsey L. Long, Republican, one hundred thirty-four.
W. L. McWilliams, Republican, one hundred thirty-seven.
Ret Millard, Republican, one hundred thirty-four.
George E. Nickel, Republican, one hundred thirty-five.
Joseph G. Ralls, Republican, one hundred thirty-four.
W. A. Williams, Republican, one hundred thirty-four.
E. B. Barnes, Socialist, two.
C. B. Boylan, Socialist, two.
A. R. Bradshaw, Socialist, twenty.
W. H. Davis, Socialist, twenty-one.
R. E. Dooley, Socialist, twenty.
Allen Fields, Socialist, twenty.
Lewis B. Irvin, Socialist, twenty-one.
I. N. Johnson, Socialist, twenty.
A. W. Renshaw, Socialist, twenty.
Thos. W. Woodrow, Socialist, twenty.
M. Simpson Allen, Prohibitionist, three.
J. E. Brewer, Prohibitionist, three.
Chas. Brown, Prohibitionist, three.
S. H. Brown, Prohibitionist, three.
Taylor H. Ebersole, Prohibitionist, three.
G. M. Hadduck, Prohibitionist, three.
Chas. O. Jennings, Prohibitionist, three.
J. H. Medaris, Prohibitionist, three.
G. E. Rouch, Prohibitionist, three.
H. E. Strickler, Prohibitionist, three.

For United States Senator:

Robt. L. Owen, Democrat, one hundred fifty-four.
J. T. Dickerson, Republican, one hundred thirty-one.
John G. Wills, Socialist, twenty-two.

For Congressman, State at large:

Wm. H. Murray, Democrat, one hundred forty-three.
 Joe B. Thompson, Democrat, one hundred forty.
 Claude Weaver, Democrat, one hundred fifty-one.
 Alvin D. Allen, Republican, one hundred twenty-four.
 Jas. L. Brown, Republican, one hundred twenty-four.
 Emory D. Brownlee, Republican, one hundred twenty-five.
 Oscar Ameringer, Socialist, twenty-one.
 J. T. Cumbie, Socialist, seventeen.
 J. Luther Langston, Socialist, seventeen.

For justice supreme court, first district:

John B. Turner, Democrat, one hundred forty-four.
 Charles Alston Cook, Republican, one hundred twenty-seven.

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat, one hundred forty-seven.
 George T. Ralls, Republican, one hundred twenty-eight.
 E. S. Hurt, Socialist, eighteen.

For Representative in Congress, second district:

J. J. Carney, one hundred four four.
 Dick T. Morgan, one hundred.
 P. D. McKenzie, fifteen.

For State senator, fourteenth district:

Ben F. Wilson, one hundred forty-two.
 John Threadgill, one hundred thirty-seven.
 Geo. E. Owens, eighteen.

For Representative, second district:

Hugh A. Randall, one hundred forty-two.
 John H. Horton, one hundred thirty-two.
 Bert Dixon, eighteen.

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, twenty-five.

No, two hundred eighteen.

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, ninety.

No, one hundred thirteen.

We further certify that there were no spoiled ballots, the consecutive numbers of which were numbers -----; and there were four hundred sixty-one unused ballots, the consecutive numbers of which were from and including numbers three hundred thirty-nine to and including number eight hundred.

J. T. YEARD,
 E. D. OSBORN,
 N. Z. HURD,
 A. D. ESTABROOK,
Official Counters.
 S. W. CHILDS, *Inpt.*

Subscribed and sworn to before me this, the 5th day of November, A. D. 1912.
 This oath may be administered by the judge, clerk, or inspector.

EXHIBIT K 1.

Affidavit of challenged voter.

STATE OF OKLAHOMA,

County of Arcadia:

I do solemnly swear (or affirm)—

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than 30 days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

- (4) I have resided for more than six months last past in the county in which I am now offering to vote.
- (5) I have resided for more than one year last past in the State of Oklahoma.
- (6) I am over the age of 21 years.
- (7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.
- (8) I am not kept in any poorhouse or other asylum at public expense.
- (9) I am not now being kept in a public prison.
- (10) I am not a lunatic.
- (11) I am not an officer or soldier in the Regular Army or a marine in the Navy of the United States.
- (12) I know of no reason why I am not entitled to a vote.
- (13) I am generally known by the name under which I now desire to vote, which is Anderson Harilson.
- (14) I have not voted and will not vote in any other precinct in this election.
- (15) My occupation is farmer.
- (16) My residence is Arcadia, Deep Fork Township.
- (17) During the last six months I have resided at Arcadia.
- (18) I have removed from Kansas to Oklahoma of the following date: 23 years ago.
- (19) That Walter Owen and Albert Sandy have personal knowledge of my residence in the precinct 30 days and in the county 6 months and in the State 1 year.

ANDERSON (his x mark) HARILSON.

Subscribed and sworn to before me this 5th day of November, 1912.

W. B. WARD,
Justice of the Peace.

STATE OF OKLAHOMA,
County of ———:

I swear that I know, or am informed, and believe that Anderson Harilson, now offering to vote, is not a legal voter in this precinct.

D. E. BURNWORTH.

Subscribed and sworn to before me this 5th day of November, 1912.

STATE OF OKLAHOMA,
County of Oklahoma:

I do solemnly swear (or affirm) that I am a qualified elector in this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that Anderson Haraldson, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county 6 months and in this precinct 30 days at Arcadia; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

Subscribed and sworn to before me this 5th day of November, 1912.

B. W. OWEN.

Should the person challenged be not a native of the United States, unless he be of Indian descent he may strike out the avowal No. 2, to be by him subscribed. If he be of Indian descent, he must be a native of the United States to be entitled to vote.

Should the person challenged be at the time confined in a poorhouse or other asylum at public expense he may still be entitled to subscribe to said affidavit and vote, provided he will strike out of avowal No. 8, as arranged herein, the word "not" and add at the close of such avowal with pen and ink the words "as a soldier of the War 1861-65 between the States."

Should the person challenged be an officer in the Regular Army or a marine in the Navy of the United States enlisted from this State, he may strike out the word "nor" in avowal No. 11 and add at the close of the avowal the words "but I enlisted from this State," and strike out avowal No. 18 in case he has not removed as therein provided.

EXHIBIT K 2.

Affidavit of challenged voter.

STATE OF OKLAHOMA,

County of Oklahoma:

I do solemnly swear (or affirm)

(1) I am a male citizen of the United States.

(2) I am a native of the United States.

(3) I have for more than 30 days, last past, resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct.

(4) I have resided for more than six months, last past, in the county in which I am now offering to vote.

(5) I have resided for more than one year, last past, in the State of Oklahoma.

(6) I am over the age of 21 years.

(7) I am not deprived of any right of citizenship by virtue of any conviction of a felony.

(8) I am not now kept in any poorhouse or other asylum at public expense.

(9) I am not now being kept in a public prison.

(10) I am not a lunatic.

(11) I am not an officer, or soldier, in the Regular Army, or a marine in the Navy of the United States.

(12) I know of no reason why I am not entitled to a vote.

(13) I am generally known by the name under which I now desire to vote, which is ———.

(14) I have not voted and will not vote in any other precinct in this election.

(15) My occupation is farmer.

(16) My residence is Arcadia.

(17) During the last six months I have resided at Arcadia.

(18) I have removed from Kansas to Oklahoma of the following date: 22 years ago.

(19) That Charles Norris and Fred Trent have personal knowledge of my residence in the precinct 30 days, and in the county 6 months, and the State 1 year.

SAM (his x mark) FAME.

Subscribed and sworn to before me, this 5th day of November, 1912.

W. B. Wood,

Justice of the Peace.

STATE OF OKLAHOMA,

County of Oklahoma, Okla.:

I swear that I know, or am informed, and believe that Fred Trent, now offering to vote is not a legal voter in this precinct.

—————

Subscribed and sworn to before me this 5th day of November, 1912.

C. E. BURNWORTH.

STATE OF OKLAHOMA, *County of ———:*

I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year, next preceding this election; that Fred Trent, who now desires to vote, has resided in this State for one year, immediately preceding this election; that he has resided in this county six months, and in this precinct 30 days, at Arcadia; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

—————

Subscribed and sworn to before me this 5th day of November, 1912.

CHARLIE MORRIS.

Should the person challenged be not a native of the United States, unless he be of Indian descent, he may strike out the avowal No. 2, to be by him subscribed. If he be of Indian descent, he must be a native of the United States to be entitled to vote.

Should the person challenged be at the time confined in a poorhouse, or other asylum, at public expense, he may still be entitled to subscribe to said affidavit

and vote, provided he will strike out of avowal No. 8, as arranged herein, the word "not," and add at the close of such avowal, with pen and ink, the words, "as a soldier of the war 1861-65 between the States."

Should the person challenged be an officer in the Regular Army, or a marine in the Navy of the United States, enlisted from this State, he may strike out the word "nor" in avowal No. 11, and add at the close of the avowal the words, "but I enlisted from this State," and strike out avowal No. 18 in case he has not removed, as therein provided.

EXHIBIT K 3.

Exhibit K 3 (original folios 902-904) is a duplicate of Exhibit K 2, and is omitted in printing.

EXHIBIT K 4.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

Personally appeared before me A. Thomas, whom I am personally acquainted with, and made oath that he is a resident of Oklahoma County and is a legal voter in Choctaw Township, and that his grandfather on his side of the house and also on his mother's side of the house was white men and legal voters.

A. (his x mark) THOMAS.

Witness to mark:

B. C. HIGDON.

HANS MARTIN.

Subscribed and sworn to this the 1st day of November, 1912.

[SEAL.]

J. D. EDMUNDSON, *Notary Public.*

My commission expires June 21, 1913.

EXHIBIT K 5.

Amended return.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

W. I. Davis, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly appointed qualified, and acting inspector of Dewey Township, said county and said State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township, and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said W. I. Davis asks that this amended return be made a part of the original return, and that said vote be not canvassed nor the result of said township declared.

W. I. DAVIS.

Subscribed and sworn to before me this 16th day of November, 1912.

[SEAL.]

MARY S. HILL, *Notary Public.*

My commission expires November 21, 1915.

EXHIBIT K 6.

Amended return.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

A. L. Moore, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly ap-

pointed, qualified, and acting judge counting board of Luther Township, said county and State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township, and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said A. L. Moore asks that this amended return be made a part of the original return, and that said vote be not canvassed nor the result of said township declared.

A. L. MOORE.

Subscribed and sworn to before me this 16th day of November, 1912.

[SEAL.]

P. M. VOREL, *Notary Public*.

My commission expires December 10, 1912.

EXHIBIT K 7.

Amended return.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

Louis Vorel, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly appointed, qualified, and acting inspector of Luther Township, said county and State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township, and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said Louis Vorel asks that this amended return be made a part of the original return, and that said vote be canvassed nor the result of said township declared.

LOUIS VOREL.

Subscribed and sworn to before me this 16th day of November, 1912.

[SEAL.]

P. M. VOREL, *Notary Public*.

My commission expires December 10, 1912.

EXHIBIT K 8.

Amended return.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

C. E. Burnworth, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly appointed, qualified, and acting inspector of Deep Fork Township, said county and State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote, and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said C. E. Burnworth asks that this amended return be made a part of the original return, and that said vote be not canvassed nor the result of said township declared.

C. E. BURNWORTH.

Subscribed and sworn to before me this 15th day of November, 1912.

[SEAL.]

JOHN R. ANDERSON, *Notary Public*.

My commission expires June 14, 1916.

EXHIBIT K 9.

*Amended return.*STATE OF OKLAHOMA, *Oklahoma County, ss:*

F. H. Morris, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly appointed, qualified, and acting clerk of Deep Fork Township, said county and State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote, and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said F. H. Morris asks that this amended return be made a part of the original return and that said vote be not canvassed nor the result of said township declared.

F. H. MORRIS.

Subscribed and sworn to before me this 15th day of November, 1912.

[SEAL.]

JOHN R. ANDERSON, *Notary Public.*

My commission expires June 14, 1916.

EXHIBIT K 10.*Amended return.*STATE OF OKLAHOMA, *Oklahoma County, ss:*

G. W. Swails, of lawful age, declares that at the general election held in the State of Oklahoma on the 5th day of November, 1912, he was the duly appointed, qualified, and acting counter of Deep Fork Township, said county and State; that no legal election was held in said township upon said date; that fraud and intimidation were used against the election officials in said township and threats of criminal prosecution made to the end that many illegal voters of the negro race might vote, and did so vote; and that it is impossible to determine from the vote in said township what the result of the vote therein would have been had it not been for such illegal vote and the methods used in said township; and that the said G. W. Swails asks that this amended return be made a part of the original return and that said vote be not canvassed nor the result of said township declared.

G. W. SWAILS.

Subscribed and sworn to before me this 16th day of November, 1912.

[SEAL.]

JOHN R. ANDERSON, *Notary Public.*

My commission expires June 14, 1916.

EXHIBIT K 11.STATE OF OKLAHOMA, *County of Oklahoma, ss:*

G. W. Swails, of lawful age, being first duly sworn, states: That he is a resident of Oklahoma County, State of Oklahoma, and a legal voter in Deep Fork Township, in said county; that on the 5th day of November, 1912, he was one of the counters at the county, State, and National elections held in said State and in said township; that as such election officer he was on duty at the voting place in said township and sat in the presence of C. E. Burnworth, the election inspector, together with the other election officers; that during the progress of the voting at said election there were negroes, or persons of African descent, who presented themselves at said voting place and asked for ballots to vote; that their votes were challenged by said inspector of elections: said negroes aforesaid refused then and there to qualify as provided by the laws of the State of Oklahoma, and then and there stated that they could not read nor write; that they were refused the privilege at that time of voting; that said negroes

went away and later returned with affidavits which were sworn to by Charles Morris, another negro; after that they were allowed to vote at said election; that at no time did said negroes qualify as provided for by law, but stated that they could not read and could not write; that A. H. Crabb, a candidate for office in said township, told the said election officers that if they did not allow said negroes to vote they would get into serious trouble; that there were as many as three or more of said negroes who voted at said election in said township under the conditions and circumstances above named; that Fred Trent was one of such negroes so voting.

Dated this 11th day of November, 1912.

G. W. SWAILS.

Subscribed and sworn to before me this 11th day of November, 1912.

[SEAL.]

JOHN ROATEN, *Notary Public*.

My commission expires January 11th, 1916.

EXHIBIT K 12.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

F. H. Morris, of lawful age, being first duly sworn, deposes and states that he is a resident of Oklahoma County, State of Oklahoma; that he resided in Deep Fork Township of said county and is a legal voter therein; that he was such a resident of said township on the 5th day of November, 1912; that he was the duly appointed, qualified, and acting clerk of elections in said township on said date, to wit, the 5th day of November, 1912, the day upon which was held the county, State, and National election; that he was present on said date at the regular voting place of said township, to perform his duties as such election officer; that he remained there, acting in such capacity throughout the day of said election; that as such election officer at said place and date aforesaid, this affiant tried to follow the laws of the State of Oklahoma with reference to allowing or not allowing persons to vote at said election; that in said township and on said date there were a number of negroes, or persons of African descent, to wit, Fred Trent and others, who presented themselves at said election to vote, and called for the county, State, and National ballot; that this affiant, or one of the other of said election officials, challenged said persons on the ground that they, and each of them, were no legal voters under the laws of the State of Oklahoma in that such persons could not qualify under the constitutional provision usually shown as the "grandfather clause"; that said negroes insisted upon voting at said election in disregard of the said laws in violation thereof and under the objections of this affiant; that said persons of African descent did vote at said election aforesaid; that this affiant did not take the necessary means to prevent said negroes from voting as aforesaid, for the reason that this affiant had received threatening letters from Federal officers warning this affiant against enforcing or trying to enforce said laws, particularly the said "grandfather clause"; that he had also heard that other election officers in this State had been prosecuted by the Federal officers for enforcing said laws, and this affiant was afraid to enforce said laws for that reason; that there were three or more negroes voted on said date at said election at said voting place.

Dated this 11th day of November, 1912.

F. H. MORRIS.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

The within statement was subscribed and sworn to by F. H. Morris, before me, the undersigned notary public, this 11th day of November, 1912.

[SEAL.]

JOHN ROATEN, *Notary Public*.

My commission expires January 11, 1916.

EXHIBIT K 13.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

C. E. Burnsworth, of lawful age, being first duly sworn, deposes and states: That he is a resident of Oklahoma County, State of Oklahoma; that he resided in Deep Fork Township of said county and is a legal voter therein; that he was

such a resident of said township on the 5th day of November, 1912; that he was the duly appointed, qualified, and acting inspector of elections in said township on said date, to wit, the 5th day of November, 1912, the day upon which was held the county, State, and National election; that he was present on said date at the regular voting place of said township to perform his duties as such election officer; that he remained there acting in such capacity throughout the day of said election; that as such election officer, at said place and date aforesaid, this affiant tried to follow the laws of the State of Oklahoma with reference to allowing or not allowing persons to vote at said election; that in said township and on said date there were a number of negroes, or persons of African descent, Fred Trent and others, who presented themselves at said election to vote, and called for the county, State, and National ballot; that said negroes could not read or write; that this affiant or one of the other of said election officials challenged said persons on the ground that they, and each of them, were not legal voters under the laws of the State of Oklahoma in that such persons could not qualify under the constitutional provision usually known as the "grandfather clause"; that said negroes insisted upon voting at said election in disregard of the said laws and in violation thereof and under the objections of this affiant; that said persons of African descent did vote at said election aforesaid; that this affiant did not take the necessary means to prevent said negroes from voting as aforesaid, for the reason that this affiant had received threatening letters from Federal officers warning this affiant against enforcing or trying to enforce said laws, particularly the said "grandfather clause"; that he had also heard that other election officers in this State had been prosecuted by the Federal officers for enforcing said laws, and this affiant was afraid to enforce said laws for that reason; that there were three or more negroes voted on said date at election at said voting place.

Dated this 11th day of November, 1912.

C. E. BURNSWORTH.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

The within statement was subscribed and sworn to by C. E. Burnsworth before me, the undersigned notary public, this 11th day of November, 1912.

[SEAL.]

JOHN ROATEN, *Notary Public.*

My commission expires January 11, 1916.

EXHIBIT K 14.

STATE OF OKLAHOMA, *County of Oklahoma, ss:*

Louis Vorel, of lawful age, being first duly sworn, deposes and states that he is a resident of Oklahoma County, State of Oklahoma; that he resides in Luther Township, in said county, and is a legal voter therein; that he was such a resident of said township on the 5th day of November, 1912; that he was the duly appointed, qualified, and acting inspector of elections in said township on said date, to wit, the 5th day of November, 1912, the day upon which was held the county, State, and National election; that he was present on said date at the regular voting place of said township to perform his duties as such election officer; that he remained there acting in such capacity throughout the day of said election; that as such election officer at said place and date aforesaid this affiant tried to follow the laws of the State of Oklahoma with reference to allowing or not allowing persons to vote at said election; that in said township and on said date there were a number of negroes, or persons of African descent, to wit, Green Howard and others, who presented themselves at said election to vote and called for the State and National ballot; that this affiant or one of the other of said election officials challenged said persons on the ground that they, and each of them, were not legal voters under the laws of the State of Oklahoma, in that such persons could not qualify under the constitutional provision usually known as the "grandfather clause"; that said negroes insisted upon voting at said election in disregard of the said laws and in violation thereof and under the objections of this affiant; that said persons of African descent did vote at said election aforesaid; that this affiant did not take the necessary means to prevent said negroes from voting as aforesaid for the reason that this affiant had received threatening letters from Federal officers warning this affiant against enforcing or trying to enforce said laws, particularly the said "grandfather clause"; that he had also heard that other election officers in this State

had been prosecuted by the Federal officers for enforcing said laws, and this affiant was afraid to enforce said laws for that reason; that there were 15 or more negroes voted on said date at said election at said voting place.

LOUIS VOREL.

STATE OF OKLAHOMA, *County of Oklahoma*, ss:

The within statement was subscribed and sworn to by Louis Vorel before me, the undersigned notary public, this 11th day of November, 1912.

[SEAL.]

JOHN ROATEN, *Notary Public*.

My commission expires January 11, 1916.

I, Mary S. Hill, a notary public in and for the county of Oklahoma, State of Oklahoma, do hereby certify that the above-named witnesses, whose names are severally subscribed to the foregoing depositions, were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid, and that the depositions by them respectively subscribed were reduced to writing by J. M. Harkin, a disinterested person, and subscribed by the respective witnesses in my presence, and the same were taken on the days set forth in said depositions, between the hours of 8 o'clock a. m. and 6 o'clock p. m., in the office of Giddings & Giddings, 135½ West Main Street, Oklahoma City, Okla., as specified in the notice thereto attached, and that I am not attorney or a relative of either of said parties, or otherwise interested in the event of said action.

[SEAL.]

MARY S. HILL.

Notary Public, Oklahoma County, Okla.

My commission expires November 21, 1915.

TESTIMONY FOR CONTESTEE.

NOTICE TO TAKE DEPOSITIONS.

The said John J. Carney, contestant in the above-entitled cause, and Giddings & Giddings, his attorneys of record, will hereby take notice that the contestee, Dick T. Morgan, will on the 26th day of February, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, take the depositions of divers and sundry witnesses, whose names, address, and residence are herein-after set forth, to be used as evidence in the said above-entitled cause, at the Knights and Ladies of Security Hall on the south side of Main Street in block 65 of Watonga, city of Watonga, county of Blaine, State of Oklahoma, before Theodore Graalmann, a notary public in and for Blaine County, State of Oklahoma, and that the taking of said evidence or depositions will be adjourned and continued from day to day at the same times or hours and place, and before the said notary public, and between the same hours, until the same are completed.

That the names, address, and residence of the witnesses whose depositions or evidence will be so taken are as follows, to wit:

Name.	Post office.	Township.	County.	State.
J. D. Adamson.....	Watonga.....	Arapaho.....	Blaine.....	Oklahoma.
Otis Work.....	Fay.....	do.....	do.....	Do.
Roy Tole.....	do.....	do.....	do.....	Do.
J. H. Riggs.....	Watonga.....	do.....	do.....	Do.
Harvey Laughlin.....	do.....	do.....	do.....	Do.
J. R. Whisler.....	do.....	do.....	do.....	Do.
William Dyke.....	Fay.....	do.....	do.....	Do.
G. W. Grate.....	Watonga.....	Watonga.....	do.....	Do.
J. W. Winn.....	do.....	do.....	do.....	Do.
W. J. Wills.....	do.....	do.....	do.....	Do.
Ira Burford.....	do.....	do.....	do.....	Do.
C. E. Harriott.....	do.....	do.....	do.....	Do.
R. I. Temple.....	do.....	do.....	do.....	Do.
William Hagen.....	do.....	do.....	do.....	Do.
H. H. George.....	Hitchcock.....	Cedar Valley.....	do.....	Do.
Claude C. Barnes.....	Omega.....	do.....	do.....	Do.
S. L. Clerk.....	do.....	do.....	do.....	Do.
A. C. Sherod.....	do.....	do.....	do.....	Do.
T. A. Barnes.....	do.....	do.....	do.....	Do.
George H. Butler.....	do.....	do.....	do.....	Do.
E. T. Davis.....	Hitchcock.....	do.....	do.....	Do.
L. McClure.....	Watonga.....	East Dixon.....	do.....	Do.
John V. Howry.....	do.....	do.....	do.....	Do.
Frank Beals.....	do.....	do.....	do.....	Do.
W. L. Southe.....	do.....	do.....	do.....	Do.
A. C. Dickens.....	do.....	do.....	do.....	Do.
R. G. Rycroft.....	do.....	do.....	do.....	Do.
W. L. Beals.....	do.....	do.....	do.....	Do.
W. H. Garriott.....	Fay.....	West Dixon.....	do.....	Do.
J. F. Spangler.....	do.....	do.....	do.....	Do.
J. C. Overholser.....	do.....	do.....	do.....	Do.
E. T. Richardson.....	do.....	do.....	do.....	Do.
Charles Noble.....	do.....	do.....	do.....	Do.
F. A. Knott.....	do.....	do.....	do.....	Do.
J. L. French, sr.....	do.....	do.....	do.....	Do.
Everett A. Mitchell.....	Canton.....	Canton.....	do.....	Do.
R. B. McGuire.....	do.....	do.....	do.....	Do.
John E. Lyons.....	do.....	do.....	do.....	Do.
H. J. Inlow.....	do.....	do.....	do.....	Do.
T. W. Martin.....	do.....	do.....	do.....	Do.
A. L. Slayton.....	do.....	do.....	do.....	Do.
F. A. Wallen.....	do.....	do.....	do.....	Do.
Archie Baker.....	Geary.....	West Lincoln.....	do.....	Do.
Clive Reichman.....	do.....	do.....	do.....	Do.
Clyde P. Hantz.....	Greenfield.....	do.....	do.....	Do.

Name.	Post office.	Township.	County.	State.
Roy H. Snyder.....	Geary.....	West Lincoln	Blaine.....	Oklahoma.
Jess Cooper.....	Greenfield.....	do.....	do.....	Do.
A. L. Ennen.....	do.....	do.....	do.....	Do.
W. E. Thompson.....	Watonga.....	do.....	do.....	Do.
J. C. Shafer.....	Carlton.....	Carlton.....	do.....	Do.
Dave Sinner.....	do.....	do.....	do.....	Do.
A. E. Condonier.....	do.....	do.....	do.....	Do.
George White.....	do.....	do.....	do.....	Do.
John B. Lemon.....	do.....	do.....	do.....	Do.
John McGee.....	do.....	do.....	do.....	Do.
James Dimmitt.....	do.....	do.....	do.....	Do.
E. W. Williams.....	Geary.....	East Lincoln	do.....	Do.
Martin Giger.....	do.....	do.....	do.....	Do.
E. Keely.....	do.....	do.....	do.....	Do.
John C. Funk.....	Watonga.....	do.....	do.....	Do.
Henry Husenmeyer.....	do.....	do.....	do.....	Do.
Henry Spreitzer.....	Geary.....	do.....	do.....	Do.
William Carter.....	do.....	do.....	do.....	Do.
Evan C. Coyle.....	do.....	Logan.....	do.....	Do.
Andy T. Andreson.....	Etna.....	do.....	do.....	Do.
J. F. Irving.....	Geary.....	do.....	do.....	Do.
R. M. Scott.....	do.....	do.....	do.....	Do.
C. E. Albin.....	do.....	do.....	do.....	Do.
J. A. Dunn.....	Greenfield.....	do.....	do.....	Do.
Fred Strong.....	Geary.....	do.....	do.....	Do.
C. C. Link.....	Ferguson.....	Flynn.....	do.....	Do.
George Schuber.....	do.....	do.....	do.....	Do.
Henry Riffel.....	do.....	do.....	do.....	Do.
John M. Enlow.....	do.....	do.....	do.....	Do.
David Hess.....	do.....	do.....	do.....	Do.
C. L. Hollender.....	do.....	do.....	do.....	Do.
L. R. Howell.....	do.....	do.....	do.....	Do.
Tom Mosley.....	Watonga.....	do.....	do.....	Do.
Dan Hogan.....	Geary.....	do.....	do.....	Do.
W. C. Broady.....	O'Keene.....	do.....	do.....	Do.
Harrison Brown.....	Watonga.....	do.....	do.....	Do.
E. N. Pearson.....	do.....	do.....	do.....	Do.
W. H. Phillips.....	do.....	do.....	do.....	Do.
E. H. Lookabaugh.....	do.....	do.....	do.....	Do.
Semour Foose.....	do.....	do.....	do.....	Do.
E. R. Taylor.....	do.....	do.....	do.....	Do.
J. C. Craven.....	do.....	do.....	do.....	Do.
Carrie Lambley.....	do.....	do.....	do.....	Do.
L. H. Hampton.....	do.....	do.....	do.....	Do.

DICK T. MORGAN, *Contestee*,
By MORGAN & DEUPREE,
His Attorneys.

Service of the above notice is hereby acknowledged to have been made on me and a true and correct copy thereof acknowledged to have been delivered to and received by me on this the 21st day of February, 1913.

JOHN J. CARNEY, *Contestant*.

DEPOSITIONS.

Depositions of witnesses taken to be used in an action pending before the Honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, in pursuance of the notice hereto attached, and at the time and place therein stated, and the contestant appeared by his attorney, A. L. Emery, and the contestee appeared by Morgan & Deupree, his attorneys, and thereupon the said contestee produced the following witnesses in order, to wit:

Testimony of E. R. TAYLOR.

E. R. Taylor, who being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, deposeth and says, in answer to questions propounded to him, as follows:

Examination by Mr. MORGAN:

Q. State your name and residence?—A. E. R. Taylor, Watonga, Okla.

Q. What official position, if any, do you now hold?—A. Clerk of the district court of Blaine County, State of Oklahoma.

Q. How long have you held this position?—A. Since the 6th day of January, 1913.

Q. Have you in your possession and custody the returns and documents relating to the result of the election held on November 5, 1912, in this county?—A. Yes, sir.

Q. How did these records come into your possession?—A. They were turned over to me by my predecessor.

Q. What was the occasion, if you know, of their being placed in the possession of the clerk of the district court of this county?—A. By virtue of contests that were pending in the district court.

Q. While they have been in your possession have they been safely kept from chance of change or alteration and free from opportunity to change or alter them?—A. Yes, sir.

Q. I will now ask you to produce the official returns of the election held in Arapaho township for State offices on November 5, 1912.

(Witness produces document.)

Q. What is that you now hold in your hand?—A. Certificate of vote, precinct No. 8, Arapaho township, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the sheet, identified by the witness as "Contestee's Exhibit No. 1."

Q. I will ask you to produce the returns of precinct No. 20, Watonga township, Blaine County, State of Oklahoma.

(Witness produces instrument.)

Q. What is that instrument?—A. Certificate of vote of precinct No. 20, Watonga township, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the instrument "Contestee's Exhibit No. 2."

Q. I will ask you to produce the returns of Cedar Valley Township No. 6, Blaine County, State of Oklahoma.

(Witness produced instrument.)

Q. What is this instrument?—A. Certificate of vote, Cedar Calley Township, precinct No. 6, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the instrument "Contestee's Exhibit No. 3."

Q. Will you now produce the return of the general election held November 5, 1912, in precinct No. 9, East Dixon Township, Blaine County, State of Oklahoma?

(Witness produces instrument.)

Q. What is the instrument you now present?—A. Certificate of vote, precinct No. 9, Dixon Township, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the "Contestee's Exhibit No. 4" for identification.

Q. Will you now produce the returns of the general election held on November 5, 1912, in precinct 28, West Dixon Township?

(Witness produces instrument.)

Q. Please state what the instrument you produce is.—A. Certificate of vote, precinct 28, West Dixon Township, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the instrument produced as "Contestee's Exhibit 5" for identification.

Q. Will you now produce the returns of the general election held in precinct No. 23, Canton Township, Blaine County, Okla.

(Witness produces instrument.)

Q. What is the instrument you now produce?—A. Certificate of vote of precinct 23, Canton Township, Blaine County, State of Oklahoma.

Q. We now ask that the notary mark the instrument "Contestee's Exhibit 6" for identification.

Q. I will ask you to produce the returns of precinct No. 30, East Lincoln Township, Blaine County, State of Oklahoma, November 5, 1912.

(Witness produces instrument.)

Q. What is the instrument you now produce?—A. Certificate of vote of precinct 30, Lincoln Township, Blaine County, State of Oklahoma.

Q. We now ask the notary to mark the instrument produced as "Contestee's Exhibit No. 7" for identification.

Q. I will now ask you to produce the return of the general election held in precinct No. 29, Carlton Township, Blaine County, State of Oklahoma.

(Witness produces instrument.)

Q. What is the instrument you now produce?—A. Certificate of vote of precinct 29, Carlton Township, Blaine County, State of Oklahoma.

Q. We now ask that the instrument be marked "Contestee's Exhibit No. 8" for identification.

Q. We now ask you to produce the returns of the general election held November 5, 1912, in precinct No. 10, West Lincoln Township, Blaine County, Okla.

(Witness produces instrument.)

Q. What is the instrument you now produce?—A. Certificate of vote of precinct No. 10, of West Lincoln Township, Blaine County, State of Oklahoma.

Q. We now ask that the instrument just produced be marked "Contestee's Exhibit No. 9" for identification.

Q. I will now ask you to produce the returns of the general election held November 5, 1912, in precinct No. 13, Flynn Township, Blaine County, State of Oklahoma.

(Witness produces instrument.)

Q. I will ask you what this instrument is.—A. Certificate of vote of precinct No. 13, Flynn Township, Blaine County, State of Oklahoma.

Q. I will ask the notary to mark the instrument just produced "Exhibit 10," for identification.

Q. I will now ask you to produce the returns of the general election held November 5, 1912, in precinct No. 12, Logan Township, Blaine County, State of Oklahoma.

(Witness produces instrument.)

Q. What is the instrument you produce?—A. Certificate of vote of precinct No. 12, Logan Township, Blaine County, State of Oklahoma.

Q. We now ask that the notary mark the instrument just produced "Contestee's Exhibit 11," for identification.

Q. These returns that you have just produced, are they the returns on the State ticket or on the county ticket?—A. State ticket.

E. R. TAYLOR.

Subscribed and sworn to before me this 28th day of February, A. D. 1913.
[SEAL.]

THEODORE GRAALMAN,
Notary Public.

My commission expires January 17, 1915.

Testimony of L. R. HOWELL.

Q. State your name and residence.—A. L. R. Howell; my post-office address is Homestead, and my residence Flynn Township, precinct 13.

Q. What official position did you hold at the general election held in that voting precinct on November 5, 1912?—A. Judge.

Q. You were present at that election at the voting booth and acted as judge at that election; did you?—A. Yes, sir.

Q. I hand you contestee's Exhibit 10 and ask you what it is.—A. It is a certificate of vote of Flynn Township.

Q. I will ask you to notice the signatures attached at the bottom of the exhibit and will ask you if you are acquainted with the gentlemen whose names appear signed thereto.

(Objection. To which we object as immaterial.)

A. I am.

Q. Are you acquainted with the signatures of the five men whose names appear signed thereto?

(Objection as calling for a conclusion from the witness.)

A. Yes, sir.

Q. Did you see the men whose signatures appear signed thereto sign their names thereto?—A. Yes, sir.

Q. Who acted in that precinct as counters in the general election held in precinct No. 13, Flynn Township, Blaine County, State of Oklahoma?—A. John M. Enlow, C. C. Link, George Schuber, Henry Riffle.

Q. Who acted as inspector at that election?—A. C. L. Hollander.

Q. When did those gentlemen sign that instrument?—A. The evening of the 5th of November, 1912.

Q. I will ask you to examine the instrument and state whether or not there has been any change, alteration, or mutilation thereof since you saw it signed.—A. None, except the two check marks in the certificates.

Q. Do you note any change having been made in the statement of the votes cast in that precinct as to any of the candidates?—A. I do not.

Q. We now offer in evidence contestee's Exhibit 10.

(Objected to for the reason that the exhibit has not been identified fully, and that the witness has not shown himself qualified to answer.)

Cross-examination by Mr. EMERY:

Q. Mr. Howell, you are a Republican in politics, are you?—A. Yes, sir.

Q. In your precinct there are a large number of negro voters, are there?

(Objected to as incompetent, irrelevant, and immaterial, and an improper cross-examination.)

A. It all depends on what you consider a large number.

Q. How many negroes voted at your precinct at the day of election?

(Objected to as irrelevant and immaterial and improper cross-examination.)

A. Do you want the number given?

Q. Just answer the best way you can.—A. There were six voted, if that is what you wanted to know, the number.

Q. Was the test applied to any of these six to show their qualification to vote?

(Objected to as improper cross-examination and incompetent, irrelevant, and immaterial.)

A. Not at this last election.

Q. Mr. Howell, if you are acquainted with Homer Boardman, the present United States district attorney, who was Mr. Morgan's campaign manager?

(Objected to as incompetent, irrelevant, and as assuming a state of facts not proven, and as improper cross-examination.)

Q. Mr. Howell, you knew that at the time of the last election Mr. Boardman was United States district attorney, did you?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. I did not.

Q. Did you know that Mr. Boardman was Mr. Morgan's campaign manager in the election of 1910?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. I was told he was.

Q. Do you remember of receiving, prior to the last election, a letter from Mr. Boardman, together with an article entitled "Talk it over with your wife," in regard to enforcing the grandfather clause on the negro?

(Objected to as incompetent, irrelevant, and immaterial, an improper cross-examination.)

A. Not to my knowledge.

(Comes now the contestee and moves to strike the cross-examination of the witness for the reason the same is incompetent, irrelevant, and immaterial, and improper cross-examination, the same being an attempt to prove upon cross-examination statements and allegations contained in contestant's notice of contest.)

Q. Did you hear of such a letter, Mr. Howell?

(Objected to as incompetent, irrelevant, and immaterial and improper cross-examination.)

A. I did not.

Redirect examination by Mr. MORGAN:

Q. Mr. Howell, were you present at the closing of the polls at this precinct on election day?—A. I was.

Q. After the closing of the polls, what was done by the election board?—A. The ballots were counted.

Q. Was there a tally sheet made up from the ballots themselves by the board?—A. There was.

Q. Were you present while the counting was being done?—A. I was.

Q. After the tally sheet was made up, what was done?—A. Signed up by the board.

Q. The tally sheet was signed up by the board?—A. Yes.

Q. Then from the tally sheet they made out the return or the certificate of vote marked "Contestee's Exhibit 10"?—A. Yes, sir.

Q. Now, after the returns were made out and signed up and the tally sheet signed up, what was done with the returns, the ballots, and the unused ballots?

(Objected to for the reason that the witness has not shown himself qualified to answer.)

A. Placed in the envelopes and sealed and put in the boxes, except a copy of the returns kept by the inspectors.

Q. Then what was done with the box?

(Objected to for the same reason.)

A. It was locked up.

Q. What was then done with the box?

(Objection for the same reason.)

A. The inspector took it in his charge.

Cross-examination by Mr. EMERY:

Q. You have nothing to do with the box after the returns are placed therein?—A. I lock one lock on each box.

Q. Did you have anything more to do with the box or boxes after locking them?—A. No, sir.

L. R. HOWELL.

Subscribed and sworn to before me this 26th day of February, A. D. 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public in Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 10.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 13 of Flynn Township of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words:

For corporation commissioner:

J. E. Love, Democrat, thirteen (13).

P. J. Loewen, Republican, twenty-four (24).

C. E. Hedgpeth, Socialist, eight (8).

For presidential electors, State at large:

Robert A. Baird, Democrat, fourteen (14).

J. W. Bolen, Democrat, fourteen (14).

H. H. Brenner, Democrat, fourteen (14).

Joseph W. Foster, Democrat, fourteen (14).

W. W. Hastings, Democrat, fourteen (14).

Sam Massingale, Democrat, fourteen (14).

S. H. Mayes, Democrat, fourteen (14).

David Ratner, Democrat, fourteen (14).

J. D. Scott, Democrat, fourteen (14).

J. C. Thompson, Democrat, fourteen (14).

George M. Flick, Republican, twenty-one (21).

Marshall W. Hinch, Republican, twenty-one (21).

M. P. Howser, Republican, twenty-one (21).

H. L. Hix, Republican, twenty (20).

Lindsey L. Long, Republican, twenty-one (21).

W. L. McWilliams, Republican, twenty-one (21).

Ret Millard, Republican, twenty-one (21).

George E. Nickel, Republican, twenty-one (21).

Joseph G. Ralls, Republican, twenty-one (21).

W. A. Williams, Republican, twenty-one (21).

E. B. Barns, Socialist, nine (9).

C. B. Boylan, Socialist, eight (8).

A. R. Bradshaw, Socialist, eight (8).

W. H. Davis, eight (8).

R. E. Dooley, Socialist, eight (8).

Allen Fields, Socialist, eight (8).

Lewis B. Irvin, Socialist, eight (8).

I. N. Johnson, Socialist, nine (9).

A. W. Renshaw, Socialist, eight (8).

Thos. W. Woodrow, Socialist, eight (8).

M. Simpson Allen, Prohibition, one (1).

J. E. Brewer, Prohibition, one (1).

Chas. Brown, Prohibition, one (1).

S. H. Brown, Prohibition, one (1).

Taylor H. Ebersole, Prohibition, one (1).

G. M. Haddock, Prohibition, one (1).

Chas. O. Jennings, Prohibition, one (1).

J. H. Medaris, Prohibition, one (1).

- For presidential electors. State at large—Continued.
 G. E. Rouch, Prohibition, one (1).
 H. E. Strickler, Prohibition, one (1).
- For United States Senator:
 Robt. L. Owen, Democrat, fifteen (15).
 J. T. Dickerson, Republican, twenty-three (23).
 John G. Wills, Socialist, eight (8).
- For Congressman, State at large:
 Wm. H. Murray, Democrat, fourteen (14).
 Joe B. Thompson, Democrat, fourteen (14).
 Claude Weaver, Democrat, fourteen (14).
 Alvin D. Allen, Republican, twenty-two (22).
 Jas. L. Brown, Republican, twenty-three (23).
 Emory D. Brownlee, Republican, twenty-two (22).
 Oscar Ameringer, Socialist, ten (10).
 J. T. Cumbie, Socialist, eight (8).
 J. Luther Langston, Socialist, eight (8).
- For justice supreme court, first district:
 John B. Turner, Democrat, fourteen (14).
 Charles Alston Cook, Republican, twenty-two (22).
- For judge criminal court appeals, southern district:
 Henry M. Furman, Democrat, fourteen (14).
 George T. Ralls, Republican, twenty-two (22).
 E. S. Hurt, Socialist, eight (8).
- For Representative in Congress, second district:
 P. D. McKinzy, eight (8).
 J. J. Carney, thirteen (13).
 Dick T. Morgan, twenty-two (22).
- For State senator, sixteenth district:
 S. H. Henderson, seven (7).
 E. J. Warner, twenty-six (26).
 M. B. Carley, twelve (12).
- For representative:
 John T. Long, nine (9).
 W. R. Kelly, fifteen (15).
 J. Jamison, twenty-two (22).
- State question No. 40, initiative petition No. 25:
 Shall it be adopted?
 Yes, eleven (11).
 No, fifteen (15).
- State question No. 45, referendum petition No. 17:
 Shall the proposed amendment be adopted?
 Yes, thirteen (13).
 No, nine (9).

We further certify that there were — spoiled ballots, the consecutive numbers of which were numbers —, and there were 209 unused ballots, the consecutive numbers of which were from and including number 58 to and including number 266.

C. C. LINK,
 GEORGE SCHUBER,
 HENRY RIEFFEL,
 JOHN M. ENLOW,
Official Counters.

Subscribed and sworn to before me this 5th day of November, A. D. 1912.

C. L. HOLLANDER.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 10 introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

Testimony of W. L. BEALS.

Mr. W. L. Beals, called to testify after being sworn to tell the truth, the whole truth, and nothing but the truth:

Q. State your name and residence.—A. W. L. Beals.

Q. What is your residence?—A. Blaine County, State of Oklahoma.

Q. What voting precinct do you live in?—A. No. 9.

Q. That is East Dixon Township, is it?—A. Yes, sir.

Q. At the last general election held on November 5, 1912, what official position, if any, did you hold?—A. Judge.

Q. Were you present during the entire day of the election up to the time the board disbanded?—A. Yes, sir.

Q. You were duly qualified and sworn to act as judge in said precinct at said election, were you?—A. Yes.

Q. I will ask you to inspect Contestee's Exhibit 4 and will ask you to state what it is.—A. Certificate of vote.

Q. I will ask you to examine the signatures at the bottom and will ask you if you were present when those signatures were placed thereon.—A. Yes, sir.

Q. Who acted as counters in said precinct at said election?—A. John Howry, Frank Beals, W. L. Souther, L. McClure.

Q. Who acted as inspector in that precinct at said election?—A. Mr. R. C. Rycroft.

Q. I will ask you if you are acquainted with the signatures of those parties.—A. Yes, sir.

Q. Is the signature on Contestee's Exhibit 4 of the counters and the inspector of said precinct?—A. Yes, sir.

Q. Were you present when this certificate of the vote was being written out?—A. Yes, sir.

Q. Were you present at the time the counters were making out the tally sheets?—A. Yes, sir.

Q. Were you present at the time the total vote was transferred from the tally sheet to this certificate of vote?—A. Yes, sir.

Q. Was this certificate of vote taken from the tally sheet made by the counters?—A. Yes, sir.

Q. Examine Exhibit 4 and state whether or not it is in the same condition as when signed up by the counters and the inspector.—A. Yes, sir.

Q. After the certificate was signed up what was done with it?—A. They were all put in an envelope and sealed up after being signed.

Q. What was then done with it?—A. Put in a box.

Q. Locked up?—A. Yes, sir.

Q. What was then done with it?—A. The inspector took charge of the boxes.

Q. Is this exhibit here, Contestee's Exhibit 4, one of the official returns of the votes cast in the precinct for State officers?—A. Yes, sir.

Contestee now offers in evidence Contestee's Exhibit No. 4 and asks that a true and correct copy thereof be attached to the deposition of this witness.

(Objected to, for the reason that the same has not been proven or authenticated and the witness not showing himself qualified to do so.)

Cross-examination by Mr. EMERY:

Q. Mr. Beals, did any Indians or negroes or Indians vote in your district?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. Yes, sir.

Q. How many negroes and how many Indians?

(Objected to as incompetent and immaterial, and improper cross-examination.)

A. Well, I think there were about six or seven negroes; I think there was about five Indians.

Q. How many—did any of these negroes or Indians take the test to show their qualification to vote?—A. Yes, sir.

Q. About how many did not take the test?

(Objected to as irrelevant and incompetent, and improper cross-examination.)

A. The Indians just walked up and voted if they were of age, just like anybody else.

Q. Do you know if these Indians could read or write?

(Objected to as incompetent, irrelevant, and improper cross-examination, and calling for a conclusion of the witness, he having not testified that he knows.)

A. No, sir.

Q. Were they blanket Indians?

(Objected to as incompetent, irrelevant, and improper cross-examination.)

A. Didn't have none on.

Q. How many negroes voted without taking the test?

(Objected to as incompetent, irrelevant, and improper cross-examination.)

A. What test do you mean?

Q. I have reference to the test as to whether or not they were able to read and write any section of the State constitution.

(Objected to for the same reason last above stated.)

A. I think there were three.

Q. Why was the test not applied to these three?

(Objected to as incompetent, irrelevant, immaterial, and improper cross-examination.)

A. The freedman act; their father was a white man.

Q. Is that what they claimed?—A. Yes, sir.

Q. The election officers just took their word for it, did they?

(Objected to as incompetent, irrelevant, and improper cross-examination.)

A. Yes, sir.

Redirect examination by Mr. MORGAN:

(Comes now the contestee and moves to strike out the cross-examination for contestant for the reason that the same is incompetent, irrelevant, and all improper cross-examination, and for the reason that the same constitutes an attempt on the part of the contestant to prove an allegation in contestant's notice of contest.)

W. L. BEALS.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 4.

Certificate of vote.

We, the undersigned, official counters for the election held at precinct No. — of — Township of — County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on, is herein set forth in written words:

For corporation commissioner:

J. E. Love, Democrat, thirty-one (31).

P. J. Loewen, Republican, thirty-six (36).

C. E. Hedgpeth, Socialist, twenty-three (23).

For presidential electors, State at large:

Robert A. Baird, Democrat, thirty-one (31).

J. W. Bolen, Democrat, thirty-two (32).

H. H. Brenner, Democrat, thirty-three (33).

Joseph W. Foster, Democrat, thirty-three (33).

W. W. Hastings, Democrat, thirty-two (32).

Sam Massingale, Democrat, thirty-three (33).

S. H. Mayes, Democrat, thirty-two (32).

David Ratner, Democrat, thirty-three (33).

J. D. Scott, Democrat, thirty-four (34).

J. C. Thompson, Democrat, thirty-three (33).

George M. Flick, forty-two (42).

Marshall W. Hinch, Republican, forty-one (41).

M. P. Howser, Republican, forty (40).

H. L. Dix, Republican, forty-one (41).

Lindsey L. Long, Republican, forty-two (42).

W. L. McWilliams, Republican, forty (40).

Ret Millard, Republican, forty-one (41).

George E. Nickel, Republican, forty-one (41).

Joseph G. Ralls, Republican, forty (40).

W. A. Williams, Republican, forty (40).

E. B. Barnes, Socialist, twenty-two (22).

C. B. Boylan, Socialist, twenty-two (22).

A. R. Bradshaw, Socialist, twenty-two (22).

W. H. Davis, Socialist, twenty-two (22).

For presidential electors, State at large—Continued.

R. E. Dooley, Socialist, twenty-two (22).
 Allen Fields, Socialist, twenty-two (22).
 Allen Fields, Socialist, twenty-two (22).
 Lewis B. Irvin, Socialist, twenty-two (22).
 I. N. Johnson, Socialist, twenty-two (22).
 A. W. Renshaw, Socialist, twenty-two (22).
 Thomas W. Woodrow, Socialist, twenty-two (22).
 M. Simpson Allen, Prohibitionist, two (2).
 J. E. Brewer, Prohibitionist, two (2).
 Charles Brown, Prohibitionist, two (2).
 S. H. Brown, Prohibitionist, two (2).
 Taylor H. Ebersole, Prohibitionist, two (2).
 G. M. Haddock, Prohibitionist, two (2).
 Charles O. Jennings, Prohibitionist, two (2).
 J. H. Medaris, Prohibitionist, two (2).
 G. E. Rouch, Prohibitionist, two (2).
 H. E. Strickler, Prohibitionist, two (2).

For Untied States Senator:

Robert L. Owen, Democrat, thirty-six (36).
 J. T. Dickerson, Republican, thirty-five (35).
 John G. Wills, Socialist, twenty-two (22).

For Congressman, State at large:

Wm. H. Murray, Democrat, thirty-four (34).
 Joe B. Thompson, Democrat, thirty-four (34).
 Claude Weaver, Democrat, thirty-three (33).
 Alvin D. Allen, Republican, thirty-six (36).
 Jas. L. Brown, Republican, thirty-six (36).
 Emory D. Brownlee, Republican, thirty-seven (37).
 Oscar Ameringer, Socialist, twenty-three (23).
 J. T. Cumbie, Socialist, twenty-three (23).
 J. Luther Langston, Socialist, twenty-three (23).

For justice supreme court first district:

John B. Turner, Democrat, thirty-four (34).
 Charles Alston Cook, Republican, thirty-four (34).

For judge criminal court appeals southern district:

Henry M. Furman, Democrat, thirty-four (34).
 George T. Ralls, Republican, thirty-five (35).
 E. S. Hurt, Socialist, twenty-four (24).

For Representative in Congress, — district:

P. D. McKinzie, twenty-three (23).
 Dick T. Morgan, thirty-nine (39).
 J. J. Carney, thirty-three (33).

For State senator, — district:

S. H. Hendrickson, twenty-four (24).
 E. J. Warner, thirty-eight (38).
 M. B. Carley, thirty-two (32).

For Representative:

John T. Long, thirty-four (34).
 Geo. Jamison, thirty-three (33).
 W. R. Kelley, twenty-nine (29).

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, twenty (20).

No, fifty-nine (59).

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, fifty-four (54).

No, sixteen (16).

We further certify that there was one spoiled ballot the consecutive number of which was No. 64, and there were 158 unusual ballots the consecutive numbers of which were from and including Nos. 108 to and including No. 266.

FRANK BEALS,
 W. L. SOUTHER,
 L. McCLURE,
 JOHN V. HOWRY,
 R. G. RYCROFT,
Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.
This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true and correct, complete, and entire copy of the Exhibit 4 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, Okla.

My commission expires January 17, 1915.

Testimony of R. G. RYCROFT.

Direct examination by Mr. Morgan :

Q. State your name, voting precinct in which you reside.—A. R. G. Rycroft, East Dixon, No. 9, Blaine County, State of Oklahoma.

Q. What, if any, official position did you hold at the general election held in the said precinct on the 5th day of November, 1912, in said precinct.—A. I was inspector.

Q. Calling your attention to Contestee's Exhibit 4, I will ask you if that is your signature at the bottom thereof?—A. Yes, sir.

Q. The gentlemen whose name appears as official counters acted in that capacity at that election, did they?—A. They did.

Q. After the ballot box containing this certificate of vote was turned into your possession on the 5th day of November, 1912, what did you do with it?—A. I delivered it to the election board of Blaine County the morning of the 6th?

Q. This box was in your possession and under your control during the time when it was turned over to you on the evening of the 5th of November and the time you delivered it to the county election board on the 6th day of November, was it?—A. Yes, sir.

Cross-examination :

Q. Mr. Rycroft, just tell briefly about negroes and Indians voting in your precinct.

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. Well, there were 6 or 7 Indians and 11 negroes voted.

Q. Could they read and write?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. I couldn't say as to the Indians. Part of the negroes were tested and the balance were not. Two of them signed affidavits that their grandfathers were freedmen.

Q. Did you see that letter of Mr. Boardman and that article "Talk it over with your wife," before the election?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. I did.

Q. What effect, if any, did these matters have on your mind, or on the mind of the election board in reference to the enforcement of the grandfather clause?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination, and also as calling for a conclusion and opinion of the witness.)

A. Well, it made me careful in putting the test for fear of getting it too strong.

Q. Did you know that Mr. Boardman was at the time United States district attorney?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

Q. I heard that he had got the appointment and that his name was signed to the letter.

Q. Did you know that he had been in the election of 1910 Mr. Morgan's campaign manager?

(Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.)

A. I probably knew that at the time, but I didn't give that any thought.

Redirect examination by Mr. MORGAN :

Q. Mr. Rycroft, you belong to the Democrat Party, do you not?—A. Yes, sir.

Q. All of the negroes who voted except two were tested, were they not?—A. No, sir; I think not. There were about three or four that were not tested.

Q. Then, as I understand you, 7 of the 11 negroes were tested?—A. Six of the seven were tested as to their qualifications to read and write and the others signed affidavits.

Q. The affidavits you speak of were the affidavits referred to above where those negroes swore that their grandfather was a white man?—A. Yes, sir.

Q. Now, the remainder of the negroes who voted—how did you come to let them vote without testing them?—A. I think I was satisfied with their test in the election before.

Q. You were inspector before and had tested them?—A. Yes, sir.

Q. How did you test the negroes whom you tested that day?—A. I tested them as to whether they could read and write.

(Comes now the contestee and moves to strike out all of the cross-examination of this witness for the reason that the same is improper cross-examination.)

R. G. RYCROFT.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public.

My commission expires January 17, 1915.

Testimony of F. A. KNOTT.

Direct examination by Mr. MORGAN :

Q. State your name and the voting precinct in which you live.—A. F. A. Knott, West Dixon, precinct No. 28.

Q. State what, if any, official position you held at the general election held in that precinct on November 5, 1912.—A. Inspector.

Q. Were the officers who presided at that election in all respects duly qualified to hold their office?—A. They were.

Q. I will ask you to state who acted as counters at that election?—A. J. C. Overholser, E. T. Richardson, J. F. Spangler, and W. H. Garriott.

Q. Who acted as clerk at that election?—A. D. H. Noble.

Q. Was the election held in that precinct on that day in all respects regular?—A. To the best of my knowledge it was.

Q. Did the counters make up a tally sheet of the votes cast for candidates on the State ticket?—A. They did.

Q. Did they prepare a certificate of the vote cast in said precinct for the candidates on the State ticket?—A. They did.

Q. I will ask you to examine Contestee's Exhibit No. 5 and will ask you to state whether that is one of the official certificates of the vote so cast.—A. It is; I wrote out this copy myself.

Q. Did you copy the number of votes cast as shown by this certificate from a tally sheet prepared by the counters?—A. I did.

Q. Please examine the signatures of the counters and the clerk at the bottom of this certificate and I will ask you if you saw these men sign this certificate?—A. I did.

(Contestee now offers in evidence Contestee's Exhibit 5 and asks that a true, correct, and complete copy thereof be attached to the deposition of this witness.)

Q. After this certificate was made out what was done with it?—A. It was placed in a package with the ballots voted and stub ballots and the package sealed and stamped, names of the judge and the clerk written across the end of it; placed in the ballot box, the box locked and returned to the county election board of Blaine County on the following day.

Q. This certificate was locked in the box on the night of November 5, 1912?—A. It was.

Q. And was that box in your possession and under your control from the time that it was locked up to the time that it was given by you to the county election board?—A. It was.

Q. Asking you to examine this certificate, I will ask you if it is in the same condition it was when it was placed in the box as regards any alterations or changes?—A. It is.

F. A. KNOTT.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 5.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 28 (twenty-eight) of Dixon Township of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State Questions Numbers 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, twenty-seven (27).
P. J. Loewen, Republican, thirty-seven (37).
C. E. Hedgpeth, Socialist, four (4).

For presidential electors State at large:

Robert A. Baird, Democrat, twenty-six (26).
J. W. Bolen, Democrat, twenty-six (26).
H. H. Brenner, Democrat, twenty-six (26).
Joseph W. Foster, Democrat, twenty-six (26).
W. W. Hastings, Democrat, twenty-six (26).
Sam Massingale, Democrat, twenty-six (26).
S. H. Mayes, Democrat, twenty-six (26).
David Ratner, Democrat, twenty-six (26).
J. D. Scott, Democrat, twenty-six (26).
J. C. Thompson, Democrat, twenty-six (26).
George M. Flick, Republican, thirty-eight (38).
Marshall W. Hinch, Republican, thirty-eight (38).
M. P. Howser, thirty-eight (38).
H. L. Hix, Republican, thirty-eight (38).
Lindsey L. Long, Republican, thirty-eight (38).
W. L. McWilliams, Republican, thirty-eight (38).
Ret Millard, Republican, thirty-eight (38).
George E. Nickel, Republican, thirty-eight (38).
Joseph G. Ralls, Republican, thirty-eight (38).
W. A. Williams, thirty-eight (38).
E. B. Barnes, Socialist, four (4).
C. B. Boylan, Socialist, four (4).
A. R. Bradshaw, Socialist, four (4).
W. H. Davis, Socialist, four (4).
R. E. Dooley, Socialist, four (4).
Allen Fields, Socialist, four (4).
Lewis B. Irvin, Socialist, four (4).
I. N. Johnson, Socialist, four (4).
A. W. Renshaw, Socialist, four (4).
Thos. W. Woodrow, Socialist, four (4).
M. Simpson Allen, Prohibitionist, one (1).
J. E. Brewer, Prohibitionist, one (1).
Chas. Brown, Prohibitionist, one (1).
S. H. Brown, Prohibitionist, one (1).
Taylor H. Ebersole, Prohibitionist, one (1).
G. M. Hadduck, Prohibitionist, one (1).
Chas. O. Jennings, Prohibitionist, one (1).
J. H. Medaris, Prohibitionist, one (1).
G. E. Rouch, Prohibitionist, one (1).
H. E. Strickler, Prohibitionist, one (1).

For United States Senator:

Robt. L. Owen, Democrat, twenty-six (26).
J. T. Dickerson, Republican, thirty-eight (38).
John G. Wills, Socialist, four (4).

For Congressman, State at large:

Wm. H. Murray, Democrat, twenty-six (26).
 Joe B. Thompson, Democrat, twenty-six (26).
 Claude Weaver, Democrat, twenty-six (26).
 Alvin D. Allen, Republican, thirty-eight (38).
 Jas. L. Brown, Republican, thirty-eight (38).
 Emory D. Brownlee, Republican, thirty-eight (38).
 Oscar Ameringer, Socialist, four (4).
 J. T. Cumbie, Socialist, four (4).
 J. Luther Langston, Socialist, four (4).

For justice supreme court, first district:

John B. Turner, Democrat, twenty-six (26).
 Charles Alston Cook, Republican, thirty-eight (38).

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat, twenty-six (26).
 George T. Ralls, Republican, thirty-eight (38).
 E. S. Hurt, Socialist, four (4).

For Representative in Congress, second district:

Dick T. Morgan, thirty-nine (39).
 J. J. Carney, twenty-five (25).
 P. D. McKezie, four (4).

For State senator, Sixteenth district:

E. J. Warner, thirty-eight (38).
 M. B. Carley, twenty-six (26).
 S. H. Hendrickson, four (4).

For representative:

George Jamison, thirty-six (36).
 W. R. Kelley, twenty-five (25).
 J. T. Long, six (6).

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, eleven (11).

No, twenty-seven (27).

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, twelve (12).

No, twenty-two (22).

We further certify that there were no spoiled ballots, the consecutive numbers of which were numbers —, and there were 194 unused ballots, the consecutive numbers of which were from and including No. 73 to and including No. 266.

J. C. OVERHOLSER,
 E. T. RICHARDSON,
 J. F. SPANGLER,
 W. H. GARRIOTT,
Official counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.

C. H. NOBLE, *Clerk.*

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss.*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 5 introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

Testimony of HARVEY LAUGHLIN.

Direct examination by Mr. MORGAN:

Q. State your name and the voting precinct in which you live?—A. Harvey Laughlin, Arapaho Township, No. 8, Blaine County, State of Oklahoma.

Q. What, if any, official position did you hold in said precinct, at the general election held therein on the 5th day of November, 1912?—A. I was clerk.

Q. Who were the counters in that precinct at that election?—A. L. D. Adamson, Otis Work, J. H. Riggs, R. A. Tolle.

Q. Who acted as inspector in that precinct?—A. J. R. Whistler.

Q. Who acted as judge?—A. W. E. Dykes.

Q. Were you present on election day, at all times from the opening of the polls until the counting was finished?—A. Yes, sir.

Q. Were you present when the counters made out their tally sheet?—A. Yes, sir.

Q. After the tally sheets were made up, and the votes counted, what further acts were done by the board?—A. The counters counted the votes and we filled out these certificates of the votes and then—

Q. I will ask you to examine Contestee's Exhibit 1 and ask you to state what it is?—A. Well, this is a certificate of the vote from that precinct.

Q. As between the candidates on the State ticket?—A. Yes, sir.

Q. I will ask you to examine the signature at the bottom of this instrument and will ask you whose signature it is?—A. This is my own signature.

Q. Whose signatures are those at the bottom of this sheet designated as official counters?—A. Those are the signatures of the official counters of Arapahoe Township.

Q. Did you see them sign it?—A. Yes, sir.

Q. I will ask you to examine Contestee's Exhibit 1, and state what was done with this certificate, and state what was done after it was signed by the counters and yourself.—A. We placed this in an envelope and sealed it and put it in a box and locked the box and turned it over to Mr. Whistler.

Q. What, if you know, did he do with it?—A. All I can swear to about that is, we took this down to Mr. Whistler's house that night.

Q. I will ask you to examine Contestee's Exhibit No. 1 and state whether it is in the same condition as when placed in the envelope by the board.—A. I believe that is just the same as it was with the exception of the stenographer's mark "Exhibit 1."

Q. Did you write out that certificate yourself?—A. Yes, sir.

Q. Did you copy the entries of the votes cast in that precinct from one of the official tally sheets?—A. Yes, sir.

(Contestee now offers in evidence Contestee's Exhibit 1 and asks that a true, correct, and complete copy thereof be attached to this deposition.)

HARVEY LAUGHLIN.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 1.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 8, of Arapaho Township, of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct, in said election, for the various candidates, and for and against State questions Nos. 40 and 45, voted on, is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, twenty-eight.

P. J. Loewen, Republican, forty-two.

C. E. Hedgpeth, Socialist, fourteen.

For presidential electors, State at large:

Robert A. Baird, Democrat, twenty-seven.

J. W. Bolen, Democrat, twenty-seven.

H. H. Brenner, Democrat, twenty-six.

Joseph W. Foster, Democrat, twenty-six.

W. W. Hastings, Democrat, twenty-six.

Sam Massingale, Democrat, twenty-six.

S. H. Mayes, Democrat, twenty-six.

David Ratner, Democrat, twenty-six.

For presidential electors, State at large—Continued.

J. D. Scott, Democrat, twenty-six.
 J. C. Thompson, Democrat, twenty-six.
 George M. Flick, Republican, forty-four.
 Marshall W. Hinch, Republican, forty-three.
 M. P. Howser, Republican, forty-three.
 H. L. Hix, Republican, forty-two.
 Lindsey L. Long, forty-three.
 W. L. McWilliams, Republican, forty-two.
 Ret Millard, Republican, forty-two.
 George E. Nickel, Republican, forty-two.
 Joseph G. Ralls, Republican, forty-two.
 W. A. Williams, Republican, forty-three.
 E. B. Barnes, Socialist, fourteen.
 C. B. Boylan, Socialist, fourteen.
 A. R. Bradshaw, Socialist, fourteen.
 W. H. Davis, Socialist, fourteen.
 H. E. Dooley, Socialist, fourteen.
 Allen Fields, Socialist, fourteen.
 Lewis B. Irvin, Socialist, fourteen.
 I. N. Johnson, Socialist, fourteen.
 A. W. Renshaw, Socialist, fourteen.
 Thos. W. Woodrow, Socialist, thirteen.
 M. Simpson Allen, Prohibitionist, two.
 J. E. Brewer, Prohibitionist, two.
 Chas. Brown, Prohibitionist, two.
 S. H. Brown, Prohibitionist, two.
 Taylor H. Ebersole, Prohibitionist, two.
 G. M. Haddock, Prohibitionist, two.
 Chas. O. Jennings, Prohibitionist, two.
 J. H. Medaris, Prohibitionist, two.
 G. E. Rouch, Prohibitionist, two.
 H. E. Strickler, Prohibitionist, three.

For United States Senator:

Robt. L. Owen, Democrat, thirty.
 J. T. Dickerson, Republican, forty-four.
 John G. Wills, Socialist, fourteen.

For Congressman, State at large:

Wm. H. Murray, Democrat, twenty-eight.
 Joe B. Thompson, Democrat, twenty-seven.
 Claude Weaver, Democrat, twenty-seven.
 Alvin D. Allen, Republican, forty-three.
 Jas. L. Brown, Republican, forty-three.
 Emory D. Brownlee, Republican, forty-five.
 Oscar Ameringer, Socialist, fourteen.
 J. T. Cumbe, Socialist, fifteen.
 J. Luther Langston, Socialist, fourteen.

For justice, supreme court, first district:

John B. Turner, Democrat, twenty-nine.
 Charles Alston Cook, Republican, forty-four.

For judge, criminal court of appeals, southern district

Henry M. Furman, Democrat, twenty-eight.
 George T. Ralls, Republican, forty-five.
 E. S. Hurt, Socialist, fifteen.

For Representative in Congress, second district:

J. J. Carney, twenty-seven.
 D. L. Morgan, forty-seven.
 P. D. McKenzie, thirteen.

For State senator, sixteenth district:

M. B. Carley, twenty-nine.
 E. J. Warner, forty-three.
 S. H. Hendrickson, thirteen.

For representative:

W. R. Kelly, twenty-four.
 George Jamison, forty-seven.
 John T. Long, fifteen.

State question No. 40, initiative petition No. 25:

Shall it be adopted?

Yes, twenty-one.

No, fifty-one.

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, forty-six.

No, sixteen.

We further certify that there were no spoiled ballots, the consecutive numbers of which were numbers 1 to 97, and there were 170 unused ballots, the consecutive numbers of which were from and including numbers 96 to 266 to and including number ———.

L. D. ADAMSON,
OTIS WORK,
J. H. RIGGS,
R. A. TOLLE,
HARVEY LAUGHLIN,
Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.
This oath may be administered by the clerk.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 1 introduced in evidence by the contestant in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, Okla.

My commission expires January 17, 1915.

Testimony of W. E. DYKES.

Direct examination by Mr. MORGAN:

Q. State your name and voting precinct in which you live.—A. W. E. Dykes; my voting precinct is Arapaho.

Q. What, if any, official position did you hold at the last general election held in the said precinct on the 5th day of November, 1912?—A. Judge.

Q. Were you present all that day until the votes and ballots were locked in the boxes?—A. Yes, sir.

Q. Was the election held in that precinct regular in all respects?—A. To the best of my judgment.

Q. There were no irregularities that you know of?—A. No.

W. E. DYKES.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public.*

My commission expires January 17, 1915.

Testimony of A. L. SLAYTON.

Direct examination by Mr. MORGAN:

A. L. Slayton, of lawful age, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Q. State your name, residence, and the voting precinct in which you live.—A. A. L. Slayton, Canton, precinct No. 23.

Q. What, if any, official position did you hold in said township and voting precinct at the general election held November 5, 1912?—A. Inspector.

Q. Who acted as counters at said election?—A. E. A. Mitchell, H. J. Enlow, J. E. Lyon, R. B. McGuire.

Q. Who acted as clerk and judge.—A. F. A. Wallen as judge and T. W. Martin clerk.

Q. Calling your attention to Contestee's Exhibit 6, I will ask you to state what that is.—A. Certificate of vote.

Q. Certificate of vote cast at said election for the candidates on the State ticket?—A. Yes, sir.

Q. Were you present all of the day of the election up to the time the ballot boxes were locked?—A. Yes, sir.

Q. Were you present when this certificate of vote was made out?—A. I was in the room.

Q. Was that certificate of vote made out by some member of the election board from a tally sheet prepared by the counters?—A. It was got out by the counters. After they had signed it I signed it.

Q. What was done with this certificate of vote after it was prepared and signed by the counters and yourself?—A. It was sealed in an envelope and placed in the ballot box.

Q. Was the envelope sealed with wax in the form required by law?—A. Yes, sir; it was sealed with wax.

Q. After this envelope was sealed what was done with it?—A. It was placed in the ballot box and locked.

Q. What was then done with the ballot box?—A. I took them home until the next morning, then brought them to Watonga and turned them over to the county election board.

Q. Please examine contestee's Exhibit No. 6 and state if this is in the same condition it was when placed in the ballot box in the sealed envelope.—A. I would say that it is.

Q. Do you note any changes or alteration thereon?—A. No, sir.

(Contestee now asks that the Exhibit 6 be introduced in evidence and that a true, correct, and complete copy thereof be attached to the deposition of this witness.)

Q. Was the election held in precinct No. 23 of Canton Township in all respects regular?—A. To the best of my knowledge it was.

Q. The election concerning which you have just testified took place in precinct No. 23, Canton Township, which is in Blaine County, State of Oklahoma, did it?—A. Yes, sir.

Q. Examine Exhibit 6 and state what it shows the vote to have been cast for John J. Carney and Dick T. Morgan, respectively.—A. John J. Carney, 55; Dick T. Morgan, 104.

A. L. SLAYTON.

Subscribed and sworn to before me this 27th day of February, A. D. 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 6.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 23 of Canton Township of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in figures.

For corporation commissioners:

J. E. Love, Democrat.....	54
P. J. Loewen, Republican.....	104
C. E. Hedgpeth, Socialist.....	39

For presidential electors State at large:

Robert A. Baird, Democrat.....	51
J. W. Bolen, Democrat.....	51
H. H. Brenner, Democrat.....	50
Joseph W. Foster, Democrat.....	50
W. W. Hastings, Democrat.....	51
Sam Massingale, Democrat.....	51
S. H. Mayes, Democrat.....	50
David Ratner, Democrat.....	50
J. D. Scott, Democrat.....	50
J. C. Thompson, Democrat.....	50
Geo. M. Flick, Republican.....	106

For presidential electors, State at large—Continued.

Marshall W. Hinch, Republican	106
M. P. Howser, Republican	106
H. L. Hix, Republican	106
Lindsey L. Long, Republican	106
W. L. McWilliams, Republican	106
Ret Millard, Republican	107
Geo. E. Nickel, Republican	106
Joseph G. Ralls, Republican	106
W. A. Williams, Republican	106
E. B. Barnes, Socialist	39
C. B. Boylan, Socialist	39
A. R. Bradshaw, Socialist	39
W. H. Davis, Socialist	39
R. E. Dooley, Socialist	39
Allen Fields, Socialist	39
Lewis B. Irvin, Socialist	39
I. W. Johnson, Socialist	39
A. W. Renshaw, Socialist	39
Thomas W. Woodrow, Socialist	39
M. Simpson Allen, Prohibition	1
J. E. Brewer, Prohibition	1
Chas. Brown, Prohibition	1
S. H. Brown, Prohibition	1
Taylor H. Ebersole, Prohibition	1
G. M. Hadduck, Prohibition	1
Chas. O. Jennings, Prohibition	1
J. H. Modaris, Prohibition	1
G. E. Rouch, Prohibition	1
H. E. Strickler, Prohibition	1
For United States Senator:	
Robt. L. Owen, Democrat	55
J. T. Dickerson, Republican	102
John G. Wills	39
For Congressman, State at large:	
Wm. H. Murray, Democrat	51
Joe B. Thompson, Democrat	49
Claude Weaver, Democrat	48
Alvin D. Allen, Republican	105
Jas. L. Brown, Republican	105
Emory D. Brownlee, Republican	106
Oscar Ameringer, Socialist	39
J. T. Cumble, Socialist	39
J. Luther Langston, Socialist	39
For justice supreme court, first district:	
John B. Turner, Democrat	53
Chas. Alston Cook, Republican	104
For judge criminal court appeals, southern district:	
Henry M. Furman, Democrat	53
Geo. T. Ralls, Republican	100
W. S. Hurt, Socialist	39
For Representative in Congress, second district:	
Dick T. Morgan	104
J. J. Carney	55
H. D. McKenzie	37
For State senator, sixteenth district:	
E. S. Warner	105
M. B. Corley	51
S. H. Hendrickson	40
For representative:	
George Jamison	95
W. R. Kelly	65
J. F. Long	40
State question No. 40, initiative petition No. 25:	
Shall it be adopted?—	
Yes	63
No	77

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?—

Yes ----- 65
No ----- 30

We further certify that there were 3 spoiled ballots, the consecutive numbers of which were Nos. 43, 28, and 44, and that there were 60 unused, the consecutive numbers of which were from and including Nos. — to and including —.

E. A. MITCHELL,
H. J. INLOW,
J. E. LYONS,
R. B. MCGUIRE,
Official Counters.
A. T. SLAYTON.

Subscribed and sworn to before me this 5th day of November, A. D. 1912.
_____, Clerk.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 6 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

F. A. WALLEN, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Q. State your name, residence, and voting precinct in which you live.—A. F. A. Wallen, Canton Township, Blaine County, State of Oklahoma, precinct No. 23.

Q. What, if any, official position did you hold at the last general election held on November 5, 1912?—A. I was election judge.

Q. Were you present during all the day of the election and all of the time the election board was in session on that day?—A. Yes, sir.

Q. There was an election held on that day, was there?—A. Yes, sir.

Q. Asking you to examine Contestee's Exhibit 6, I will ask you to state what it is.—A. Certificate of vote for office on the State ticket.

Q. Please note especially the signatures of the counters and the inspector at the bottom thereof, and state whether you saw those signatures signed thereto.—A. Yes, sir.

Q. Those signatures are the signatures of the counters and the inspector of that precinct, are they?—A. Yes, sir.

Q. Were you present when the Exhibit No. 6 was made out?—A. Yes, sir.

Q. Was the votes shown thereon taken by some of the election officials from the tally sheet made up by the counters?—A. Yes, sir.

F. A. WALLEN.

Subscribed and sworn to before me this 27th day of February, A. D. 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public.*

My commission expires January 17, 1915.

J. C. DIMMETT, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Q. State your name, your residence, and the voting precinct in which you live.—A. J. C. Dimmett, Carlton Township, precinct No. 29.

Q. What, if any, official position did you hold at the last general election held in Carlton Township, precinct No. 29, Blaine County, State of Oklahoma?—A. Judge.

Q. Were you present during the entire time the election board in that precinct were in session on that day?—A. I was.

Q. Was there an election held on that day at which votes were cast for Congressman in the second congressional district of the State of Oklahoma?—A. Yes.

Q. Was the election board in that precinct on that day duly organized?—A. It was.

Q. Were the officers who acted on that day duly qualified?—A. They were.

Q. I will ask you to examine Contestee's Exhibit No. 8 and ask you to state what it is.—A. Certificate of votes cast.

Q. At that election?—A. Yes.

Q. Were you present when this certificate of vote was made up?—A. Yes, sir.

Q. From what were the totals shown thereon taken?—A. From the tally sheet.

Q. Please examine the signatures attached at the bottom of this certificate and state if you know the signatures appearing thereon?—A. Yes, sir.

Q. Who acted as counters in said precinct at said election?—A. J. C. Schafer, Dave Sinner, A. E. Condoner, and George White.

Q. Who acted as inspector in that precinct?—A. John McGee.

Q. Who acted as clerk?—A. John B. Lemon.

Q. Are you acquainted with the signatures of the men who acted as counters and as clerk at said election?—A. Yes, sir.

Q. Please examine the signatures attached to Contestee's Exhibit No. 8 and state whether or not the signatures attached thereto are the signatures of the counters and the clerk, respectively, who acted at said election as such officials.—A. Yes, sir.

Q. Did you see those gentlemen sign their name to that certificate?—A. Yes, sir.

Q. After this certificate was made out, what was done with it?—A. Put in an envelope, sealed and put in the ballot box.

Q. What was then done with the ballot box?—A. It was locked up and turned over to the inspector.

Q. What was then done with the box, if you know?—A. The inspector took charge of them; they was in his possession until in the morning and then brought down to the county election board.

Q. Please examine Contestee's Exhibit No. 8 and state whether or not it is in the same condition now as when signed by the counters and the clerk of said election board as changes, alterations, or mutilations.—A. I don't see no alterations nor changes.

(Contestee now offers in evidence Contestee's Exhibit No. 8 and asks that a true, correct, and complete copy thereof, duly certified, be attached to the deposition of this witness.)

(To which we object as incompetent and irrelevant and not proven identified or authenticated.)

Cross-examination by Mr. EMERY:

Q. The negroes and Indians who voted in your precinct, state whether or not the test as to whether or not they were able to read and write was applied to them, and if not, why not?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial and as improper cross-examination.

A. Well, we had tested those Indians. But I know some of them could write. Well, Mr. McGee was the inspector two years ago, and they were eligible to vote, he said. They voted two years ago and they let them vote this time.

Q. Do you know whether or not the test was applied either this last election, or two years ago, to the Indians?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I don't know. I was not in that township two years ago.

Q. Can you state the number of Indians who voted who could not read or write?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. Well, there were some I don't know whether they could read or write or not.

Q. Now, did you see this letter of Mr. Boardman, United States district attorney, in reference to enforcement of the grandfather clause at any time before the close of the election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I can't say on what day I got that.

Q. Did you get it before the close of the election, before the polls closed?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination. It not having been shown that the contestee, nor anyone by or for him, wrote, or had written, or sent, or had sent the letter and circular referred to.

A. Well, I can't say when I got that letter.

Q. Did you know of that letter on the day of the election?

Mr. MORGAN. Objected to for the reason last above stated.

A. I think it came the evening after the polls closed. I think I got it that day. I wouldn't be positive about that.

Mr. MORGAN. Comes now the contestee and moves to strike from the record all of the cross-examination of this witness for the reason that the same is incompetent, irrelevant, and immaterial, and improper cross-examination.

J. C. DIMMETT.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT No. 8.

Certificate of vote.

We, the undersigned, official counters for the election held at precinct No. 29 of Carlton Township of Blaine County on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, thirteen.

P. J. Loewen, Republican, fifty-one.

C. E. Hedgpeth, Socialist, fifteen.

For presidential electors. State at large:

Robt. A. Baird, Democrat, thirteen.

J. W. Bolen, Democrat, thirteen.

H. H. Brenner, Democrat, thirteen.

Joseph W. Foster, Democrat, thirteen.

W. W. Hastings, Democrat, fourteen.

Sam Massingale, Democrat, fourteen.

S. H. Mayes, Democrat, fourteen.

David Ratner, Democrat, fourteen.

J. D. Scott, Democrat, fourteen.

J. C. Thompson, Democrat, fourteen.

Geo. M. Flick, Republican, fifty.

Marshall W. Hinch, Republican, fifty-one.

M. P. Howser, Republican, fifty.

H. L. Hix, Republican, fifty.

Lindsey L. Long, Republican, fifty.

W. L. McWilliams, Republican, fifty.

Ret Millard, Republican, fifty.

Geo. E. Nickel, Republican, fifty.

Joseph G. Ralls, Republican, fifty.

W. A. Williams, Republican, fifty.

E. B. Barnes, Socialist, thirteen.

C. B. Boylan, Socialist, thirteen.

A. R. Bradshaw, Socialist, thirteen.

W. H. Davis, Socialist, thirteen.

R. E. Dooley, Socialist, thirteen.

Allen Fields, Socialist, thirteen.

Lewis B. Irvin, Socialist, thirteen.

I. N. Johnson, Socialist, thirteen.

A. W. Renshaw, Socialist, thirteen.

Thos. W. Woodrow, Socialist, thirteen.

M. Simpson Allen, Prohibition.

For presidential electors, State at large—Continued.

J. E. Brewer, Prohibition.
Chas. Brown, Prohibition.
S. H. Brown, Prohibition.
Taylor H. Ebersole, Prohibition.
G. M. Hadduck, Prohibition.
Chas. O. Jennings, Prohibition.
J. H. Medaris, Prohibition.
G. E. Rouch, Prohibition.
H. E. Strickler, Prohibition.

For United States Senator:

Robt. L. Owen, Democrat, thirteen.
J. T. Dickerson, Republican, forty-eight.
John G. Wills, thirteen.

For Congressman, State at large:

Wm. H. Murray, Democrat, fifteen.
Joe B. Thompson, Democrat, thirteen.
Claude Weaver, Democrat, thirteen.
Alvin D. Allen, Republican, forty-nine.
Jas. L. Brown, Republican, forty-nine.
Emory D. Brownlee, Republican, fifty.
Oscar Ameringer, Socialist, fourteen.
J. T. Cumble, Socialist, fourteen.
J. Luther Langston, Socialist, fourteen.

For justice supreme court, first district:

John B. Turner, Democrat, thirteen.
Chas. Alston Cook, Republican, fifty-three.

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat, fourteen.
Geo. T. Ralls, Republican, forty-nine.
E. S. Hurt, Socialist, fourteen.

For Representative in Congress, second district:

Dick T. Morgan, fifty-one.
J. J. Carney, thirteen.
H. D. McKenzie, fourteen.

For State senator, sixteenth district:

E. S. Warner, fifty-two.
M. B. Corley, fourteen.
S. H. Hendrickson, twelve.

For representative:

George Jamison, fifty-two.
W. P. Kelly, thirteen.
J. P. Long, twelve.

State question No. 40, Initiative petition No. 25:

Shall it be adopted?
Yes, fifty-two.
No, fourteen.

State question No. 45, Referendum petition No. 17:

Shall the proposed amendment be adopted?
Yes, forty-four.
No, sixteen.

We further certify that there were no spoiled ballots, the consecutive numbers of which were Nos. —, and that there were 116 unused, the consecutive numbers of which were from and including Nos. 42 to and including 266.

J. C. SCHAFER,
DAVE SINNER,
A. E. CONDONIER,
GEORGE WHITE,
Official Counters.
JOHN B. LEMON.

Subscribed and sworn to before me this 5th day of November, A. D. 1912.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public, in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete,

and entire copy of the Exhibit 8 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

JOHN MCGEE, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Q. State your name, the township in which you live, and the voting precinct.—A. John McGee, Carlton Township, precinct No. 29.

Q. What official position, if any, did you hold at the general election held in said precinct on November 5, 1912?—A. Inspector.

Q. Calling your attention to Contestee's Exhibit No. 8, same being certificate of vote cast in said precinct at said election, I will ask you what was done with the box in which it was deposited on the evening of the election?—A. I took the box and took it to where I slept, and there held it until morning, brought it to Watonga, put it in the hands of the county election board.

Q. Was there any opportunity during the time in which it was in your possession for any change or alteration of this certificate?—A. For anyone to tamper with it? No, sir.

Cross-examination by Mr. EMERY:

Q. Mr. McGee, what can you say in reference to negroes voting in your precinct, and about the test regarding their ability to read and write being applied to them?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I never did test them—this time.

Q. Now, just state, Mr. McGee, why it was you did not test them this time.

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. Simply because I tested them two years ago, and I thought that was sufficient.

Q. Did you ever see that letter of Mr. Boardman, United States district attorney, and also that article "Talk it over with your wife," before the close of the polls on the day of the election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination, and for the reason that it has not been shown that the contestee herein sent or had sent, or wrote or had written, said letter and circular, or either of them.

A. I ain't got no wife.

Q. Mr. McGee, I have reference to that article which was sent out with the letter of Boardman, and the article was entitled, "Talk it over with your wife."

Mr. MORGAN. Objected to for the same reason last above stated.

A. Well, I talked it over with myself and the rest of the board.

Q. Well, now, what effect did this letter of Boardman and this article have on yourself, and on the election board, in reference to the enforcement of the grandfather clause?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I don't know as it had any effect on me.

Comes now the contestee and moves to strike the entire cross-examination of the witness for the reason the same is incompetent, irrelevant, and immaterial, and improper cross-examination, and an attempt on the part of the contestant to prove statements and allegations contained in the contestant's notice of contest.

JOHN MCGEE.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public.*

My commission expires January 17, 1915.

JOHN B. LEMON, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name, residence, and voting precinct in which you live.—A. John B. Lemon, Carlton Township, precinct No. 29, Blaine County, State of Oklahoma.

Q. What official position, if any, did you occupy at the general election held in said precinct on November 5, 1912?—A. Clerk.

Q. I will ask you to examine the signature of John B. Lemon, attached to Contestee's Exhibit No. 8, and ask you if that is your signature?—A. Yes, sir.

Q. Examine Contestee's Exhibit No. 8 and state whether or not it is in the same condition now as it was when you signed it.—A. It is.

JOHN B. LEMON.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.] -

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

F. W. CARTER, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name, the township in which you live, and the voting precinct.—A. F. W. Carter, East Lincoln Township, precinct 30.

Q. What, if any, official position did you hold in said precinct at the general election held November 5, 1912, therein?—A. Judge.

Q. Were you present on that day at the polling place in said precinct during the entire time the election board thereof was in session?—A. Yes, sir.

Q. State who acted as counters in said precinct at said election.—A. Martin Geiger, Enos Williams, E. Keely, John Funk.

Q. Who acted as inspector?—A. Henry Spreitzer.

Q. Who acted as clerk?—A. Henry Husemeyer.

Q. Were votes cast at said election for Congressman of the second district, State of Oklahoma?—A. Yes, sir.

Q. Was the election board duly organized at the opening of the polls on that day?—A. To the best of my knowledge it was.

Q. The polls were open during the time required by law, were they?—A. Yes, sir.

Q. I will ask you to examine Contestee's Exhibit No. 7 and ask you to state what it is.—A. Certificate of vote.

Q. Cast in said precinct?—A. No. 30.

Q. What township?—A. Lincoln Township, Blaine County, State of Oklahoma.

Q. Were you present at the time this certificate was prepared?—A. Yes, sir.

Q. From what were the totals of the vote cast shown thereon taken?—A. From the tally sheets.

Q. Prepared by the counters?—A. Yes, sir.

Q. Examine the signatures at the bottom of this sheet and state whether or not you saw the gentlemen whose names appear there sign said certificate.—A. I did. Yes; I saw them sign.

Q. What was done with this certificate after it was signed?—A. Put in an envelope and sealed—the returns and ballots.

Q. What was then done with that envelope?—A. It was sealed with wax and stamped with the election seal, then wrote across the flap by two of the members of the board; their names.

Q. What was then done with the envelope?—A. This one was put in the ballot box, locked by the inspector and myself.

Q. What was then done with the box?—A. Turned over to the inspector for delivery.

Q. Asking you to examine Contestee's Exhibit No. 7, I will ask you to state whether or not it is in the same condition now as it was when you saw it signed on the night of November 5, 1912, as regards changes, alterations, or erasures?—A. To the best of my recollection, it is in the same condition.

Q. Do you see any erasures or changes thereon?—A. No, sir.

F. W. CARTER.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT No. 7.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 30 of Lincoln Township, of Blaine County, on Tuesday the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, ten (10).
 P. J. Loewen, Republican, twenty-eight (28).
 C. E. Hedgpeth, Socialist, thirty-six (36).

For presidential electors, State at large:

Robert A. Baird, Democrat, nine (9).
 J. W. Bolen, Democrat, nine (9).
 H. H. Brenner, Democrat, nine (9).
 Joseph W. Foster, Democrat, nine (9).
 W. W. Hastings, Democrat, nine (9).
 Sam Massingale, Democrat, ten (10).
 S. H. Mayes, Democrat, nine (9).
 David Ratner, Democrat, nine (9).
 J. D. Scott, Democrat, nine (9).
 J. C. Thompson, Democrat, nine (9).
 Geo. M. Flick, Republican, thirty-two (32).
 Marshall W. Hinch, Republican, thirty (30).
 M. P. Howser, Republican, thirty-one (31).
 H. L. Hix, Republican, thirty (30).
 Lindsey L. Long, Republican, thirty (30).
 W. L. McWilliams, Republican, thirty (30).
 Ret Millard, Republican, thirty (30).
 George E. Nickel, Republican, thirty-one (31).
 Joseph G. Ralls, Republican, thirty (30).
 W. A. Williams, Republican, thirty (30).
 E. B. Barnes, Socialist, thirty-seven (37).
 C. B. Boylan, Socialist, thirty-eight (38).
 A. R. Bradshaw, Socialist, thirty-eight (38).
 W. H. Davis, Socialist, thirty-eight (38).
 R. E. Dooley, Socialist, thirty-eight (38).
 Allen Fields, Socialist, thirty-seven (37).
 Lewis B. Irvin, Socialist, thirty-eight (38).
 I. N. Johnson, Socialist, thirty-eight (38).
 A. W. Renshaw, Socialist, thirty-seven (37).
 Thomas W. Woodrow, Socialist, thirty-seven (37).
 M. Simpson Allen, Prohibitionist, three (3).
 J. E. Brewer, Prohibitionist, three (3).
 Chas. Brown, Prohibitionist, three (3).
 S. H. Brown, Prohibitionist, three (3).
 Taylor H. Ebersole, Prohibitionist, three (3).
 G. M. Haddock, Prohibitionist, three (3).
 Chas. O. Jennings, Prohibitionist, three (3).
 J. H. Medaris, Prohibitionist, three (3).
 G. E. Rouch, Prohibitionist, three (3).
 H. E. Strickler, Prohibitionist, three (3).

For United States Senator:

Robt. L. Owen, Democrat, eleven (11).
 J. T. Dickerson, Republican, twenty-six (26).
 John G. Wills, Socialist, thirty-seven (37).

For Congressman, State at large:

Wm. H. Murray, Democrat, twelve (12).
 Joe B. Thompson, Democrat, twelve (12).
 Claude Weaver, Democrat, twelve (12).
 Alvin D. Allen, Republican, twenty-eight (28).
 Jas. L. Brown, Republican, twenty-seven (27).
 Emory D. Brownlee, Republican, twenty-nine (29).

For Congressman, State at large—Continued.

Oscar Ameringer, Socialist, thirty-seven (37).

J. T. Cumbie, Socialist, thirty-seven (37).

J. Luther Langston, Socialist, thirty-seven (37).

For Justice Supreme Court, First District:

John B. Turner, Democrat, eleven (11).

Charles Alston Cook, Republican, twenty-eight (28).

For Judge Criminal Court of Appeals, Southern District:

Henry M. Furman, Democrat, eleven (11).

George T. Ralls, Republican, twenty-eight (28).

E. S. Hurt, Socialist, thirty-five (35).

For Representative in Congress, Second District:

J. J. Carney, Democrat, ten (10).

Dick T. Morgan, Republican, thirty (30).

T. D. McKinzie, Socialist, thirty-six (36).

For State Senator, Sixteenth District:

M. B. Corley, Democrat, eleven (11).

E. J. Warner, Republican, twenty-seven (27).

S. H. Hendrickson, Socialist, thirty-six (36).

For Representative:

W. R. Kelley, Democrat, twelve (12).

George Jamison, Republican, twenty-five (25).

J. F. Long, Socialist, thirty-nine (39).

State Question No. 40, Initiative Petition No. 25:

Shall it be adopted?—

Yes, thirty-eight (38).

No, nineteen (19).

State Question No. 45, Referendum Petition No. 17:

Shall the proposed amendment be adopted?—

Yes, thirty-two (32).

No, nineteen (19).

We further certify that there was 1 spoiled ballot, the number of which was No. 12, and there were 174 unused ballots, 93 the consecutive numbers of which were from and including No. 93 to and including No. 266.

ENOS WILLIAMS,

MARTIN GIGER,

E. KEELEY,

JOHN C. FUNK,

Official Counters.

Subscribed and sworn to before me this 5th day of November, A. D. 1912.

HENRY SPREITZER.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss.*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 7 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County,

State of Oklahoma.

My commission expires January 17, 1915.

HENRY SPREITZER, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name, the township and voting precinct in which you live.—A. Henry Spreitzer; Lincoln Township, precinct No. 30.

Q. What, if any, official position did you hold in said precinct at the general election held November 5, 1912, therein?—A. Inspector.

Q. Were you present on that day at the polling place in said precinct during the entire time the election board thereof was in session?—A. Yes, sir.

Q. Asking you to examine contestee's Exhibit No. 7, which the preceding witness has just testified was placed in one of the boxes by the election board and placed in your charge, I will ask you to state what was done by you with

that box after it was placed in your possession.—A. I kept it in the same room that night. The next morning I brought it to Watonga and placed it in the hands of the county election board.

Cross-examination by Mr. EMERY:

Q. Did any of the negroes vote in your precinct?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. Yes, sir.

Q. Do you know the number?

Mr. MORGAN. Same objection as last above stated.

A. No, sir.

Q. Did you give them the test as to whether or not they were able to read and write?

Mr. MORGAN. Same objection as last above stated.

A. Those that I was in doubt of I did.

Q. Did any negro vote who was not able to read and write?

Mr. MORGAN. Same objection as last above stated.

A. Not that I know of.

Q. Did you know or hear of this letter of Boardman's before the close of the polls on the day of the election?

Mr. MORGAN. Same objection as last above stated.

A. I believe I did.

Q. What effect, if any, did this letter have on yourself and the election board in reference to the enforcement of the grandfather clause?

Mr. MORGAN. Objected to for the reasons last above stated and for the reason that it is not shown that the contestee herein, or anyone by or for him, composed, wrote, sent, or procured to be sent either the letter or circular referred to.

A. Well, we talked it over. We were uneasy, but we done what we thought was right.

(Comes now the contestee and moves to strike from the evidence the entire cross-examination of the witness for the reason that the same is incompetent, irrelevant, and immaterial, and improper cross-examination, and the same being an attempt on the part of the contestant to prove allegations and statements set out in contestant's notice of contest.)

HENRY SPREITZER.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

GEORGE H. BUTLER, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name, your township in which you live, and your voting precinct.—A. George H. Butler, Cedar Valley Township, precinct 6, Blaine County, State of Oklahoma.

Q. Was there an election held in that precinct on the 5th day of November, 1912, at which the votes were cast for Congressman of the second district of the State of Oklahoma?—A. Yes, sir.

Q. What, if any, official position did you hold in said precinct at said election on said day?—A. Inspector.

Q. Were you present at the polling place in said precinct during the entire time the election board was in session on said day?—A. Yes, sir.

Q. Was the board duly organized according to law in said precinct on said day?—A. Yes, sir.

Q. Who acted as counters in said precinct at said election?—A. A. C. Sherod, S. L. Clark, H. H. Goerke, and Claude Barnes.

Q. Who acted as clerk and judge at said election?—A. E. T. Davis as clerk and Tom Barnes as judge. Mr. Davis was judge, but acted as clerk by consent of the board.

Q. Calling your attention to Contestee's Exhibit 3, I will ask you to state what that is?—A. It is the certificate of the vote on the State ticket.

Q. Were you present when that certificate was made out?—A. Yes, sir.

Q. Are you acquainted with the signatures of the counters at the bottom thereof?—A. Yes, sir.

Q. Are those the signatures of the parties whose names appear there?—A. Yes, sir.

Q. That is your signature at the bottom there, is it not?—A. Yes, sir.

Q. This certificate was made out from the tally sheets prepared by the counters, was it?—A. The totals were copied from the official certificate of vote.

Q. When you say official certificate of vote, you mean the instrument or paper which you have just taken from your pocket?—A. Yes, sir.

Q. What is this instrument that you have just taken from your pocket?—A. Certificate of vote.

Q. It being kept by you as one of the official copies of the certificate of vote?—A. Yes, sir.

Q. And the totals of the votes cast for the State officers was copied upon it from the tally sheets, was it not?—A. Yes, sir.

Q. I will now ask you to examine the instrument which you have taken from your pocket and compare it with Contestee's Exhibit 3 and state whether or not the totals of the votes cast for the various candidates on the State ticket are the same in the Exhibit 3 as they are upon the certificate that you have taken from your pocket.—A. They are the same.

Q. Contestee's Exhibit 3 is one of the official returns, is it not?—A. Yes, sir.

Q. You were present when it was being made out, were you?—A. Yes, sir.

Q. After it was made out what was done with it?—A. It was put in the envelope and placed in one of the boxes.

Q. Was the envelope in which it was placed sealed, and the names of two members of the election board written across the flap?—A. Yes, sir.

Q. Was the box then locked?—A. The box was locked by the clerk and judge.

Q. What was then done with the box?—A. I took charge of the box, and brought it on here to Watonga the next morning.

Q. To whom?—A. To the county election board.

Q. I will ask you if the instrument marked "Contestee's Exhibit 3" is in all respects in the same condition now as it was when signed by you and placed in the ballot box?—A. As far as I can see, it is.

Q. Do you notice any changes, alterations, or erasures thereon?—A. No, sir.

Q. While this box was in your possession, was any opportunity given to anyone to change or alter the certificate marked "Contestee's Exhibit 3"?—A. No, sir.

Q. Please examine Contestee's Exhibit 3 and state what is shown thereby as to the votes cast in said precinct for John J. Carney and Dick T. Morgan, respectively?—A. J. J. Carney, 30; Dick T. Morgan, 39.

GEO. H. BUTLER.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 3.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 6, of Cedar Valley Township, of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45, voted on, is herein set forth in written words:

For corporation commissioner:

J. E. Love, Democrat	32
P. J. Loewen, Republican	33
C. E. Hedgpeth, Socialist	24

For presidential electors, State at large:

Robert A. Baird, Democrat	31
J. W. Bolen, Democrat	30
H. H. Brenner, Democrat	29
Joseph W. Foster, Democrat	30
W. W. Hastings, Democrat	31
Sam Massingale, Democrat	31
S. H. Mayes, Democrat	30
David Ratner, Democrat	30
J. D. Scott, Democrat	31
J. C. Thompson, Democrat	29

For presidential electors, State at large—Continued.

George M. Flick, Republican	35
Marshall W. Hinch, Republican	36
M. P. Howser, Republican	36
H. L. Hix, Republican	36
Lindsey L. Long, Republican	36
W. L. McWilliams, Republican	35
Ret Millard, Republican	37
George E. Nickel, Republican	36
Joseph G. Ralls, Republican	37
W. A. Williams, Republican	38
E. B. Barnes, Socialist	26
C. B. Boylan, Socialist	26
A. R. Bradshaw, Socialist	26
W. H. Davis, Socialist	26
R. E. Dooley, Socialist	26
Allen Fields, Socialist	26
Lewis B. Irvin, Socialist	26
I. N. Johnson, Socialist	26
A. W. Renshaw, Socialist	26
Thomas W. Woodrow, Socialist	26
M. Simpson Allen, Prohibitionist	1
J. E. Brewer, Prohibitionist	1
Charles Brown, Prohibitionist	1
S. H. Brown, Prohibitionist	1
Taylor H. Ebersole, Prohibitionist	1
G. M. Haddock, Prohibitionist	1
Charles O. Jennings, Prohibitionist	1
J. H. Medaris, Prohibitionist	1
G. E. Rouch, Prohibitionist	1
H. E. Strickler, Prohibitionist	1

For United States Senator:

Robert L. Owen, Democrat	34
J. T. Dickerson, Republican	34
John G. Wills, Socialist	24

For Congressman, State at large:

Wm. H. Murray, Democrat	35
Joe B. Thompson, Democrat	33
Claude Weaver, Democrat	33
Alvin D. Allen, Republican	34
Jas. L. Brown, Republican	33
Emory D. Brownlee, Republican	35
Oscar Ameringer, Socialist	24
J. T. Cumbie, Socialist	25
J. Luther Langston, Socialist	24

For justice supreme court, first district:

John B. Turner, Democrat	31
Charles Alston Cook, Republican	38

For judge criminal court appeals, southern district:

Henry M. Furman, Democrat	29
George T. Ralls, Republican	35
E. S. Hurt, Socialist	23

For Representative in Congress — District:

Dick T. Morgan	39
J. J. Carney	30
P. D. McKinsie	21

For State senator — district:

E. J. Warner	36
M. B. Carley	28
S. H. Hendrickson	25

For representative:

W. R. Kelly	22
George Jameson	39
John T. Long	32

State question No. 40, Initiative Petition No. 25:

Shall it be adopted—	
Yes	36
No	31

State question No. 45, Referendum Petition No. 17:

Shall the proposed amendment be adopted—

Yes-----	15
No-----	50

We further certify that there was one spoiled ballot, the number of which was No. 51, and there were 166 unused ballots, the consecutive numbers of which were from and including No. 100 to and including No. 266.

H. H. GOERKE,
CLAUD G. BARNES,
S. L. CLARK,
A. C. SHEROD,
Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.

GEO. H. BUTLER.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss.:*

I, Theodore Graalman, notary public, in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 3 introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

J. A. DUNN, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Mr. EMERY. Just state, in reference to the enforcement of the grandfather clause in your precinct, and what effect, if any, Mr. Boardman's letter had upon your election board in reference thereto?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial.

A. It kept them from putting the test as strong as they would. I didn't put any of them to test at all writing. Tested them in reading. I didn't let none vote who couldn't read. They was one went in and voted that I couldn't tell whether he could read or not. I stepped around the corner to "wet," and he got his ballot while I was gone.

Direct examination by Mr. MORGAN:

Q. State your name, the township in which you live, and your voting precinct.—A. J. A. Dunn, Logan Township, precinct No. 12.

Q. Was there an election held in that voting precinct on the 5th day of November, 1912?—A. Yes, sir.

Q. At that election were there votes cast for the candidates for Congressmen from the second district of the State of Oklahoma?—A. Yes, sir.

Q. Were you present during the entire time that the board was in session on that day?—A. All of the time except the time above stated.

Q. Was the election board in that precinct on that day duly organized?—A. Yes, sir.

Q. Who acted as counters at that election?—A. J. F. Irving, R. M. Scott, Evan C. Coyle, and Andy T. Anderson.

Q. Who acted as clerk and judge of the election board of that precinct on that day?—A. C. E. Albion, clerk; Fred Strong, judge.

Q. Calling your attention to Contestee's Exhibit 11, I will ask you what that is?—A. Certificate of vote on State ballot.

Q. Were you present when this certificate of vote was prepared?—A. Yes, sir.

Q. From what were the totals of the vote taken, as shown by this certificate?—A. From the tally sheets prepared by the counters.

Q. You were present when this sheet was being made up, were you?—A. Yes, sir.

Q. Did you see the gentlemen sign this—the counters?—A. Yes, sir.

Q. And those signatures at the bottom are the signatures of the counters and the clerk who acted as such at said election, are they?—A. Yes, sir.

Q. After this certificate was prepared and signed, what was done with it?—
A. Put in the ballot box.

Q. Was it first placed in an envelope and sealed and the names of two members of the election board written across the flap thereof?—A. Yes, sir.

Q. Was the ballot box then locked?—A. Yes, sir.

Q. What was then done with it?—A. Brought to Watonga.

Q. When did you bring it to Watonga?—A. It was somewhere about 11 o'clock that night.

Q. After the box was locked and up to the time that you turned it over to the election board of Blaine County, if you did so, was there any opportunity given to change, alter, or mutilate this certificate?—A. No, sir.

Q. You delivered the box to the county election board, did you?—A. No, not that night; they were closed and I delivered it to them the next morning.

Q. Was this box in your possession all that night?—A. Yes, sir.

Q. Was any opportunity given to anyone to change or alter this certificate during the time that it was in your possession?—A. No, sir.

Q. Please examine the certificate as best you can and state whether or not it is in the same condition now as it was when it was placed in the envelope by the precinct election board.—A. To the best of my knowledge it is.

Q. You don't see any changes or alterations thereon?—A. No, sir.

(Contestee now offers in evidence Contestee's Exhibit 11 and asks that a true, correct, and complete copy thereof be attached to the deposition of this witness.)

Contestee now moves to strike from the evidence of this witness the questions propounded to the witness by Mr. Emery and the answers thereto for the reason that the same is incompetent, irrelevant, and immaterial.)

J. A. DUNN.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 11.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 12, of Logan Township, of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State Questions Nos. 40 and 45 voted on is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat, forty-five.

P. J. Loewen, Republican, eighty-three.

C. E. Hedgpeth, Socialist, thirty.

For presidential electors State-at-large:

Robert A. Baird, Democrat, forty-five.

J. W. Bolen, Democrat, forty-five.

H. H. Brenner, Democrat, forty-six.

Joseph W. Foster, Democrat, forty-six.

W. W. Hastings, Democrat, forty-six.

Sam Massingale, Democrat, forty-six.

S. H. Mayes, Democrat, forty-six.

David Ratner, Democrat, forty-eight.

J. D. Scott, Democrat, forty-eight.

J. C. Thompson, Democrat, forty-six.

Geo. M. Flick, Republican, eighty-eight.

Marshall W. Hinch, Republican, eighty-eight.

M. P. Howser, Republican, eighty-eight.

H. L. Hix, Republican, eighty-seven.

Lindsey L. Long, Republican, eighty-eight.

W. L. McWilliams, Republican, eighty-eight.

Ret Millard, Republican, eighty-eight.

George E. Nickel, Republican, eighty-seven.

Joseph G. Ralls, Republican, eighty-seven.

W. A. Williams, Republican, eighty-seven.

E. B. Barnes, Socialist, thirty.

C. B. Boylan, Socialist, twenty-nine.

For presidential electors, State-at-large—Continued.

A. R. Bradshaw, Socialist, twenty-nine.
 W. H. Davis, Socialist, twenty-nine.
 R. E. Dooley, Socialist, twenty-nine.
 Allen Fields, Socialist, twenty-nine.
 Lewis B. Irvin, Socialist, twenty-nine.
 I. N. Johnson, Socialist, twenty-nine.
 A. W. Renshaw, Socialist, twenty-nine.
 Thomas W. Woodrow, Socialist, twenty-nine.
 M. Simpson Allen, Prohibition, six.
 J. E. Brewer, Prohibition, six.
 Chas. Brown, Prohibition, six.
 S. H. Brown, Prohibition, six.
 Taylor H. Ebersole, Prohibition, six.
 G. M. Haddock, Prohibition, six.
 Chas. O. Jennings, Prohibition, six.
 J. H. Medaris, Prohibition, six.
 G. E. Rouch, Prohibition, six.
 H. E. Strickler, Prohibition, six.

For United States Senator:

Robert L. Owen, Democrat, forty-eight.
 J. T. Dickerson, Republican, eighty-two.
 John G. Wills, Socialist, twenty-nine.

For Congressman, State at large:

William H. Murray, Democrat, forty-seven.
 Joe B. Thompson, Democrat, forty-six.
 Claude Weaver, Democrat, forty-six.
 Alvin D. Allen, Republican, eighty-two.
 James L. Brown, Republican, eighty-one.
 Emory D. Brownlee, Republican, eighty.
 Oscar Ameringer, Socialist, thirty.
 J. T. Cumbie, Socialist, thirty-one.
 J. Luther Langston, Socialist, thirty-one.

For justice supreme court, first district:

John B. Turner, Democrat, forty-seven.
 Charles Alston Cook, Republican, eight-one.

For judge criminal court of appeals, southern district:

Henry M. Furman, Democrat, forty-five.
 George T. Ralls, Republican, eighty-two.
 E. S. Hurt, Socialist, twenty-nine.

For Representative in Congress, — district:

J. J. Carney, Democrat, fifty-two.
 Dick T. Morgan, eighty.
 T. D. McKinzie, twenty-nine.

For State senator, — district:

M. B. Corley, forty-six.
 E. J. Warner, eighty-two.
 S. H. Hendrickson, thirty.

For Representative:

W. R. Kelley, fifty.
 George Jamison, seventy-five.
 J. F. Long, thirty-six.

State question No. 40, initiative petition No. 25:

Shall it be adopted?—

Yes, thirty-two.

No, ninety-one.

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?—

Yes, thirty-two (32).

No, nineteen (19).

We further certify that there was 1 spoiled ballot, the number of which was No. 12, and there were 174 unused ballots, the consecutive numbers of which were from and including No. 93 to and including No. 266.

ENOS WILLIAMS,
 MARTIN GIGER,
 E. KEELEY,
 JOHN O. FUNK,
Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.

HENRY SPREITZER.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 11 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

W. E. THOMPSON, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name, the township in which you live, and the voting precinct in which you live.—A. W. E. Thompson, Lincoln Township, precinct No. 10.

Q. Was there a general election held in that precinct on the 5th day of November, 1912?—A. Yes, sir.

Q. What, if any, official position did you occupy or hold in said precinct on said day in this said election?—A. Judge.

Q. Were you present on that day at the polling place in said precinct during all the time that voting was going on and during the time of the counting of the ballots cast therein and the making out of the returns?—A. Yes, sir.

Q. Was the election board of said precinct duly organized the morning of the election?—A. Yes, sir.

Q. Who acted as counters in said precinct at said election?—A. Archie Baker, Clive Richmond, Roy Snyder, and Clyde Hantz.

Q. Who acted as inspector and clerk in said election and in said precinct?—A. A. L. Ennen as inspector, J. S. Cooper as clerk.

Q. Did these counters count the ballots cast on that day for candidates for the second district of the State of Oklahoma?—A. Yes, sir.

Q. I will ask you to examine contestee's Exhibit No. 9 and ask you to state what it is.—A. It is a certificate of vote of Lincoln Township, precinct No. 10, Blaine County, State of Oklahoma.

Q. I will ask you to examine the signatures at the bottom of contestee's exhibit and state whether or not you saw the counters sign their names thereto.—A. Yes, sir.

Q. Is that your signature at the bottom of the sheet?—A. Yes, sir.

Q. Calling your attention to the statement of the votes cast as shown on said exhibit, I will ask you from what these totals were taken?—A. Taken from the tally sheets.

Q. Prepared by the counters?—A. Yes, sir.

Q. After this certificate was signed, what was done with it?—A. As near as I can remember, it was placed in the envelope marked "Returns." It was sealed and the judge's and clerk's names written across the flap of the envelope and placed in the ballot box and locked.

Q. What was then done with the box in which this envelope was placed?—A. The inspector took charge of it.

Q. Asking you to examine Contestee's Exhibit No. 9, I will ask you if it is in the same condition now as it was when it was placed in the envelope?—A. I don't see any changes. I think it looks the same.

Q. Do you see any erasures or alterations thereon?—A. No, sir.

(Contestee now asks that a true, complete, and correct copy of said Exhibit 9 be attached to the deposition of this witness and that the same be made a part hereof.)

W. E. THOMPSON.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public.*

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 9.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 10 of Lincoln Township of Blaine County, on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against said State Questions Nos. 40 and 45 voted on, is herein set forth in written words.

For corporation commissioner:

J. E. Love, Democrat	48
P. J. Loewen, Republican	38
C. E. Hedgpeth, Socialist	49

For Presidential electors, State at large:

Robert A. Baird, Democrat	47
J. W. Bolen, Democrat	47
H. H. Brenner, Democrat	47
Joseph W. Foster, Democrat	47
W. W. Hastings, Democrat	47
Sam Massingale, Democrat	47
S. H. Mayes, Democrat	47
David Ratner, Democrat	48
J. D. Scott, Democrat	47
J. C. Thompson, Democrat	47
George M. Flick	40
Marshall W. Hinch, Republican	40
M. P. Howser, Republican	39
H. L. Hix, Republican	39
Lindsey L. Long, Republican	39
W. L. McWilliams, Republican	39
Ret Millard, Republican	39
George E. Nickel, Republican	39
Joseph G. Ralls, Republican	39
W. A. Williams, Republican	39
E. B. Barnes, Socialist	48
C. B. Boylan, Socialist	47
A. R. Bradshaw, Socialist	47
W. H. Davis, Socialist	47
R. E. Dooley, Socialist	48
Allen Fields, Socialist	47
Lewis B. Irvin, Socialist	47
I. N. Johnson, Socialist	47
A. W. Renshaw, Socialist	47
Thos. W. Woodrow, Socialist	48
M. Simpson Allen, Prohibition	
J. E. Brewer, Prohibition	
Chas. Brown, Prohibition	
S. H. Brown, Prohibition	
Taylor H. Ebersole, Prohibition	
G. M. Haddock, Prohibition	
Chas. O. Jennings, Prohibition	
J. H. Medaris, Prohibition	
G. E. Rouch, Prohibition	
H. E. Strickler, Prohibition	

For United States Senator:

Robt. L. Owen, Democrat	49
J. T. Dickerson, Republican	37
John G. Wills, Socialist	48

For Congressman, State at large:

Wm. H. Murray, Democrat	47
Joe B. Thompson, Democrat	48
Claude Weaver, Democrat	48
Alvin D. Allen, Republican	39
Jas. L. Brown, Republican	37
Emory D. Brownlee, Republican	42
Oscar Ameringer, Socialist	48
J. T. Cumbie, Socialist	49
J. Luther Langston, Socialist	49

For justice, supreme court, first district:	
John B. Turner, Democrat.....	47
Charles Alston Cook, Republican.....	37
For judge, criminal court appeals, southern district:	
Henry M. Furman, Democrat.....	47
George T. Ralls, Republican.....	37
E. S. Hurt, Socialist.....	50
For Representative in Congress, second district:	
J. J. Carney, Democrat.....	45
Dick T. Morgan, Republican.....	39
P. D. McKinzie, Socialist.....	49
For State senator, sixteenth district:	
M. B. Carley, Democrat.....	43
E. J. Warner, Republican.....	43
S. H. Hendrickson, Socialist.....	49
For representative:	
W. R. Kelley, Democrat.....	26
Geo. Jamison, Republican.....	39
John T. Long, Socialist.....	71
State question No. 40, initiative petition No. 25:	
Shall it be adopted?	
Yes.....	22
No.....	75
State question No. 45, referendum petition No. 17:	
Shall the proposed amendment be adopted?	
Yes.....	52
No.....	39

We further certify that there were no spoiled ballots, and there were 127 unused ballots, the consecutive numbers of which were from and including No. 139 to and including No. 266.

ARCHIE BAKER,
CLIVE REICHMAN,
CLYDE P. HANTZ,
R. H. SNYDER,
Official Counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.

W. E. THOMPSON.

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss:*

I, Theodore Graalman, notary public, in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy of the Exhibit 9 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

A. L. ENNEN, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Direct examination by Mr. MORGAN:

Q. State your name, township, and voting precinct in which you live.—A. A. L. Ennen; Lincoln Township; precinct No. 10, Blaine County, State of Oklahoma.

Q. What, if any, official position did you hold at the general election held November 5, 1912, in said precinct?—A. Inspector.

Q. State what you did with the box containing the envelope which in turn contained the certificate of vote marked "Contestee's Exhibit No. 9" after it was placed in your possession on the evening of November 5, 1912.—A. I took it home, kept it there over night, took it to Watonga the next morning, and turned it over to the county election board.

Q. While it was in your possession was this box unlocked?—A. No, sir.

Q. While it was in your possession was there any opportunity given for this certificate of vote to be changed or altered in any way?—A. No, sir.

A. L. ENNEN.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

C. E. ALBIN, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Direct examination by Mr. MORGAN:

Q. State your name and the township and voting precinct in which you live.—A. C. E. Albin; Logan Township; precinct No. 12, Blaine County, State of Oklahoma.

Q. Was there an election held in said precinct on the 5th day of November, 1912?—A. There was.

Q. Were candidates for election as Congressmen from the second district of the State of Oklahoma voted for in said precinct on said day?—A. Yes, sir.

Q. What, if any, official position did you hold in said precinct on said day?—A. Clerk.

Q. Calling your attention to Contestee's Exhibit 11, I will ask you to state what it is.—A. Certificate of vote of said precinct

Q. Did you see this certificate made out?—A. Yes, sir.

Q. Is this your signature at the bottom thereof?—A. Yes, sir.

Q. Asking you to examine this Exhibit No. 11, I will ask you if it is in the same condition now as when you signed it on the night of the election?—A. Yes, sir.

Q. Did you see the counters sign their names to said certificate?—A. Yes, sir.

C. E. ALBIN.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

R. I. TEMPLE, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Direct examination by Mr. MORGAN:

G. State your name, the township and voting precinct, county and State in which you live.—A. R. I. Temple, Watonga Township, precinct No. 20, Blaine County, State of Oklahoma.

Q. Was there an election held in said voting precinct on said day at which votes were cast for Congressmen in the second district of the State of Oklahoma?—A. Yes.

Q. What, if any, official position did you hold on that day in said precinct?—A. Inspector of election.

Q. Were you present at the polling place all of that day up to the time the election board adjourned?—A. Yes.

Q. Was the election board duly organized that morning before receiving ballots?—A. Yes.

Q. Who acted as counters in said precinct at said election?—A. W. J. Wells, G. W. Grote, R. A. Burford, and J. W. Winn.

Q. Who acted as clerk and judge at said election?—A. C. E. Harriott acted as clerk and William Hagan as judge.

Q. Calling your attention to Contestee's Exhibit No. 2, I will ask you to state what that is?—A. Certificate of the vote cast at said election.

Q. For State officers?—A. For State officers and State questions.

Q. Were you present when that sheet was made out?—A. Yes.

Q. Calling your attention to the signatures at the bottom, I will ask you if those are the signatures of the counters?—A. They are.

Q. Is that your signature at the bottom of the sheet?—A. It is.

Q. After this sheet was made out and signed, what was done with it?—A. My recollection is that we were to have three copies of this, one to be turned over to the county election board, one to be locked in the ballot box with the returns and one to be kept by the inspector. Just which one this is I don't know.

Q. Stating to you that this sheet was brought here by E. R. Taylor, clerk of the district court, in this county, and that he has heretofore testified that he took it from the ballot box of precinct No. 20, Watonga Township, I now ask you what was done with this sheet after it was signed?

Mr. EMERY. Objected to as leading, suggestive, question being in the nature of the statement of a fact not testified to by the witness.

A. Well, it among others, was put in an envelope marked "Returns." My recollection is that it was securely sealed and stamped, according to law.

Q. What was then done with the envelope in which this sheet was placed?—

A. It was placed in the ballot box and locked up.

Q. What was then done with the box in which the envelope was placed?—A. It was turned over to the county election board.

Q. Who had charge of this between the time the box was locked and the time it was placed in the hands of the county election board?—A. I did.

Q. Was there any opportunity given during the time that this box was in your possession to change or alter Contestee's Exhibit No. 2?—A. There was not.

Q. Asking you to examine Contestee's Exhibit No. 2, I will ask you if it is in the same condition now that it was when it was signed by the counters and yourself?—A. I think so, except the identifying marks.

Q. Do you notice any marks of alteration or change thereon?—A. No.

(Contestee now offers in evidence Contestee's Exhibit No. 2, and asks that a true, correct, and complete copy thereof be attached to the deposition of this witness.)

Mr. EMERY. Objected to as incompetent, irrelevant, and not identified, proven, or authenticated.

Cross-examination by Mr. EMERY:

Q. Mr. Temple, did any negroes vote in your precinct?

Mr. MORGAN. Objected to as irrelevant, incompetent, and immaterial, and improper cross-examination.

A. Yes, sir.

Q. How many?

Mr. MORGAN. Same objection as last above stated.

A. I do not know for sure.

Q. Give your best judgment.—A. Probably 20 or 25.

Q. Out of this number how many did you apply the test to concerning their qualifications under the State laws?—A. To all but two.

Q. Just state whether or not these two were able to read and write.

Mr. MORGAN. Objected to as irrelevant, incompetent, and immaterial, and improper cross-examination.

A. Think they were.

Q. Are you acquainted with H. N. Boardman?

Mr. MORGAN. Objected to as irrelevant, incompetent, and immaterial, and improper cross-examination.

A. Yes.

Q. Did you see those letters and an article entitled "Talk it over with your wife," the letter being signed by Mr. Boardman as United States district attorney?

Mr. MORGAN. Objected to as being incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I saw the article and a circular letter purporting to be signed by Boardman.

Q. Do you remember to whom this letter was directed?

Mr. MORGAN. Objection, for the reason last above stated.

A. My impression now is that it was addressed to the election officials, but I am not positive.

Q. I hand the witness Exhibit B, attached to the contestant's notice and grounds of contest, and ask the witness to examine it and state whether or not that Exhibit B purports to be a copy of the circular letter.

Mr. MORGAN. Objection for the reason that the same is incompetent, irrelevant, and immaterial, and improper cross-examination, and for the reason that it has not been shown that the contestee, or any one for or in his behalf, wrote, had printed, or sent out a letter marked "Exhibit B" attached to contestant's notice of contest.

A. Yes; it does.

Q. Is it the common understanding among the people of this county, and particularly among those who know Mr. Boardman, that he received his appointment as United States district attorney through the influence of Dick T. Morgan?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and as calling for a conclusion and understanding of the witness and is incompetent, irrelevant, and immaterial.

A. I think so.

Q. What part, if any, did Mr. Boardman take in the campaign of Mr. Morgan for Congress in the year 1910, if you know?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. I think he was his campaign manager.

Q. Prior to the election of 1912 how long had you been the inspector of your precinct?—A. Only a day or two—three or four days, you might say.

Q. What became of the man who had been serving as inspector, or why was it he did not serve in the election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. The inspector's name was W. A. Stevenson, and he resigned as inspector on account of being afraid to enforce the grandfather law, so he told me.

Q. What was the cause of his fear, if you know?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. He told me that he was afraid of prosecution at the hands of the Federal authorities.

Q. Do you know of any other inspectors who resigned for the same reason a few days before the election?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, and improper cross-examination.

A. Yes.

Q. Just name some of them.

Mr. MORGAN. Objected to for the reason last above stated.

A. R. J. Smack, Jack Worrell, J. H. Ruckman.

Q. What position did you occupy in the campaign, and how did you come into possession of this knowledge, and what efforts were made, if you know, to get men to serve as inspectors?

Mr. MORGAN. Objected to for the reason last above stated.

A. I was Democratic State committeeman. On that account was making inquiries about how the various inspectors stood on the grandfather law. In the precincts round about Watonga the election officials had much difficulty in getting anyone to serve as inspector. Same is true in East Lincoln.

Q. Now, Mr. Temple, just state, if you know, what men had been requested to serve as inspector and who refused for fear of a Federal prosecution on account of this circular letter of Boardman's?

Mr. MORGAN. Objected to as incompetent, irrelevant, and immaterial, as improper cross-examination, and as an effort on the part of the contestant to prove statements and allegations contained in the contestant's notice of contest after the time allowed by law for taking testimony by the contestant has expired.

A. E. L. Ashford, J. H. Temple, C. P. Temple, in precinct No. 20; Walter Ferguson, in the west precinct of Watonga.

Q. To these inspectors who refused to serve and resigned and these men who refused to accept the appointment as inspectors, was the prosecutions of Beall and Quinn generally known?

Mr. MORGAN. Objected to for the reasons last stated above.

A. I think so.

Q. As the inspector in your precinct, did you allow or permit any negro to vote that otherwise you would not if you had not received or known of these threats of the Federal prosecution?

Mr. MORGAN. Objected to for reason that it assumes a state of facts not proven, incompetent, irrelevant, and immaterial, and improper cross-examination, and as constituting an attempt and effort on the part of the contestant to prove statements and allegations contained in contestant's notice of contest after the time allowed for his taking of proof has expired, and as calling for a conclusion of the witness.

A. Yes; there were some negroes voted whom I would not have permitted to vote had I been sure there would be no Federal prosecution.

Q. State, if you know, if your answer is true with reference to other precincts in this county.

Mr. MORGAN. Objected to for the reason that the same is incompetent, irrelevant, and immaterial, and improper cross-examination, and being an effort on the part of the contestant to prove statements and allegations contained in contestant's notice of contest, upon cross-examination, and after the time allowed by law for contestant to take testimony in support of the statements and allegations in his notice of contest.

A. It is my opinion that all inspectors were more or less intimidated by threats of Federal prosecution.

(Comes now the contestee and moves to strike the answer of the witness as being an opinion and conclusion of the witness. Comes now the contestee and moves to strike the entire cross-examination of this witness for the reason that the same is incompetent, irrelevant, and immaterial, and improper cross-examination, and as being an effort on the part of the contestant to prove statements and allegations contained in the contestant's notice of contest, upon cross-examination, and after the time allowed by law for taking testimony in support of the statements and allegations contained in contestant's notice of contest has expired. The original answer served on the said contestant, showing the said answer was served upon him on January 13, 1913, and more than 40 days having now expired since said answer was so served.)

R. I. TEMPLE.

Subscribed and sworn to before me this 27th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 2.

Certificate of vote.

We, the undersigned official counters for the election held at precinct No. 20 of Watonga Township of Blaine County on Tuesday, the 5th day of November, A. D. 1912, hereby certify that the correct number of votes cast at said precinct in said election for the various candidates and for and against State questions Nos. 40 and 45 voted on is herein set forth in written words:

For corporation commissioner:

- J. E. Love, Democrat, fifty-five (55).
- P. J. Lowen, Republican, seventy-nine (79).
- C. E. Hedgpeth, Socialist, twenty-two (22).

For presidential electors, State at large:

- Robert A. Baird, Democrat, fifty-six (56).
- J. W. Bolen, Democrat, fifty-two (52).
- H. H. Brenner, Democrat, fifty-two (52).
- Joseph W. Foster, fifty-four (54).
- W. W. Hastings, Democrat, fifty-four (54).
- Sam Massingale, Democrat, fifty-four (54).
- S. H. Mayes, Democrat, fifty-four (54).
- David Ratner, Democrat, fifty-four (54).
- J. D. Scott, Democrat, fifty-five (55).
- J. C. Thompson, Democrat, fifty-four (54).
- George M. Flick, Republican, eighty-four (84).
- Marshall W. Hinch, Republican, eighty-four (84).
- M. P. Howser, Republican, eighty-four (84).
- H. L. Dix, Republican, eighty-four (84).
- Lindsey L. Long, Republican, eighty-two (82).
- W. L. McWilliams, Republican, eighty-four (84).
- Ret Millard, Republican, eighty-three (83).
- George E. Nickel, Republican, eighty-three (83).
- Joseph G. Rolls, Republican, eighty-two (82).
- W. A. Williams, eighty-two (82).
- E. B. Barnes, Socialist, twenty-three (23).
- C. B. Boylan, Socialist, twenty-two (22).
- A. R. Bradshaw, Socialist, twenty-two (22).
- W. H. Davis, Socialist, twenty-two (22).
- R. E. Dooley, Socialist, twenty-two (22).
- Allen Fields, Socialist, twenty-one (21).

For presidential electors, State at large—Continued.

- Lewis B. Irvin, Socialist, twenty-two (22).
- I. N. Johnson, Socialist, twenty-two (22).
- A. W. Renshaw, Socialist, twenty-two (22).
- Thos. W. Woodrow, Socialist, twenty-two (22).
- M. Simpson Allen, Prohibition, one (1).
- J. E. Brewer, Prohibition, one (1).
- Chas. Brown, Prohibition, one (1).
- S. H. Brown, Prohibition, one (1).
- Taylor H. Ebersole, Prohibition, one (1).
- G. M. Haddock, Prohibition, one (1).
- Chas. O. Jennings, one (1).
- J. H. Medaris, Prohibition, one (1).
- G. E. Rouch, Prohibition, one (1).
- H. E. Strickler, Prohibition, one (1).

For United States Senator:

- Robt. L. Owen, Democrat, fifty-seven (57).
- J. T. Dickerson, Republican, eighty-four (84).
- John G. Wills, Socialist, twenty-four (24).

For Congressman, State at large:

- Wm. H. Murray, Democrat, Fifty-four (54).
- Joe B. Thompson, Democrat, fifty-one (51).
- Claude Weaver, Democrat, fifty-four (54).
- Alvin D. Allen, Republican, seventy-nine (79).
- Jas. L. Brown, Republican, seventy-nine (79).
- Emory D. Brownlee, Republican, seventy-nine (79).
- Oscar Ameringer, Socialist, twenty-three (23).
- J. T. Cumbie, Socialist, twenty-four (24).
- J. Luther Langston, Socialist, twenty-five (25).

For justice supreme court, first district:

- John B. Turner, Democrat, fifty-three (53).
- Charles Alston Cook, Republican, seventy-nine (79).

For judge criminal court appeals, southern district:

- Henry M. Furman, Democrat, fifty-three (53).
- George T. Ralls, Republican, seventy-five (75).
- E. S. Hurt, Socialist, twenty-two (22).

For Representative in Congress, second district:

- J. J. Carney, forty-eight (48).
- Dick T. Morgan, eighty-nine (89).
- P. D. McKenzie, twenty-two (22).

For State senator, sixteenth district:

- M. B. Carley, fifty-two (52).
- E. J. Warner, ninety-nine (99).
- S. H. Hendrickson, twenty-two (22).

For representative:

- W. R. Kelly, forty-six (46).
- Geo. Jamison, seventy-eight (78).
- John T. Long, thirty-five (35).

State question No. 45, referendum petition No. 25:

Shall it be adopted?

Yes, thirty-five (35).

No, forty-five (45).

State question No. 45, referendum petition No. 17:

Shall the proposed amendment be adopted?

Yes, forty-one (41).

No, twenty-nine (29).

We further certify that there were 2 spoiled ballots, the consecutive numbers of which were Nos. 27 and 66, and there were 120 unused ballots, the consecutive numbers of which were from and including Nos. 181 to 300.

G. W. GROTE,
J. W. WINN,
W. J. WILLS,
IRA BURFORD,
Official counters.

Subscribed and sworn to before me this the 5th day of November, A. D. 1912.

R. I. TEMPLE, *Inspector.*

This oath may be administered by the judge, clerk, or inspector.

STATE OF OKLAHOMA, *Blaine County, ss.:*

I, Theodore Graalman, notary public, in and for Blaine County, State of Oklahoma, do hereby certify that the foregoing is a true, correct, complete, and entire copy, except that it does not include tally marks thereon which correspond with the figures shown, of the Exhibit 2 introduced in evidence by the contestee in the taking of depositions or evidence before me in the cause now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, Okla.

My commission expires January 17, 1915.

W. C. BROADY, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name and residence.—A. Okeene, Okla.

Q. What, if any, official position did you hold at the last general election, held on November 5, 1912?—A. Member of the county election board of Blaine County, State of Oklahoma.

Q. When did the county election board of Blaine County, Okla., convene for the purpose of receiving returns of this election?—A. On the evening of the 5th of November, 1912.

Q. Was there an election held in the following precincts, Blaine County, State of Oklahoma, where the voters of the several precincts voted for the various party candidates for Congressmen in the second congressional district of the State of Oklahoma, to wit: Arapaho Township, precinct 8; Watonga Township, precinct 20; Cedar Valley Township, precinct 6; East Dixon Township, precinct 9; West Dixon Township, precinct 28; Canton Township, precinct 23; West Lincoln Township, precinct 10; Carlton Township, precinct 29; East Lincoln Township, precinct 30; Logan Township, precinct 12; and Flynn Township, precinct 13?—A. There was.

Q. How late did the county election board remain in session on the night of November 5, 1912?—A. We were there until 10 o'clock.

Q. Where did the county election board meet?—A. We received the returns in the room that we have in the basement of the courthouse.

Q. What are the names of the two other members of the county election board?—A. Dan Hogan, chairman, and Tom Mosley, secretary.

Q. When did you next reconvene?—A. About 9 o'clock on the 6th in the morning.

Q. I will ask you if, while you were in session, either on the night of the 5th or the day of the 6th, whether you received the ballot boxes from Arapaho Township, precinct 8, Blaine County, Okla.?—A. Yes, sir.

Q. From Watonga Township, precinct 20?—A. Yes, sir.

Q. From Cedar Valley Township, precinct 6?—A. Yes, sir.

Q. From East Dixon Township, precinct 9?—A. Yes, sir.

Q. West Dixon Township, precinct 28?—A. Yes, sir.

Q. Canton Township, precinct 23?—A. Yes.

Q. West Lincoln Township, precinct 10?—A. Yes, sir.

Q. Carlton Township, precinct 29?—A. Yes, sir.

Q. East Lincoln Township, precinct 30?—A. Yes, sir.

Q. Logan Township, precinct 12?—A. Yes.

Q. And Flynn Township, precinct No. 13?—A. Yes, sir.

Q. These voting precincts are all in Blaine County, State of Oklahoma, are they not?—A. Yes, sir.

Q. And the boxes were all delivered to the county election board by the inspector of each precinct, were they?—A. Yes, sir.

Q. What did the county election board do with respect to the returns from the election precincts above stated?—A. They tabulated the returns as they were brought in by the inspectors—the certificates of votes.

Q. You mean the tabulations were taken from the Exhibits 1 to 11, inclusive, heretofore introduced in evidence, or from copies thereof returned to the county election board by the various precinct boards?—A. Yes, sir.

Q. When did you finish tabulating the votes cast for the candidates on the State ticket?—A. On the 7th of November, 1912.

Q. You were still in session at that time, were you?—A. Yes, sir.

Q. What time of the day on the 7th did you finish tabulating the above returns or certificates of votes?—A. It was all finished, except Mr. Hogan signing the State tally sheet, by 5 o'clock. Mr. Mosley had signed the same.

Q. Was there any place on the State tally sheet for you to sign?—A. No, sir.

Q. Was Mr. Hogan in the room where you were tabulating these returns at the time Mr. Mosley signed them?—A. Well, I don't remember.

Q. The tabulated statement you made out and which you say was ready by 5 o'clock, except the signature thereof by Mr. Hogan, did it contain and show the returns from all of the precincts in Blaine County, State of Oklahoma?—A. Yes, sir; it did.

Q. You are sure it contained the votes cast for candidates on the State ticket from the 11 precincts named above?—A. Yes, sir.

Q. What occurred after this tabulated sheet had been prepared and signed by Mr. Mosley?—A. Mr. Mosley went to the typewriter, he addressed an envelope to the State election board at Oklahoma City and said to Mr. Hogan that he would like for him to sign up this evening, as we wanted to adjourn and get this business concluded, to which Mr. Hogan objected for the reason that we had not counted the mutilated ballots and I said that I had never seen any record of there being any mutilated ballots. We went through the returns handed in by the inspectors and found no record of any mutilated ballots, but found a record of 29 spoiled ballots. Mr. Hogan also objected to signing the tabulated sheet to be sent to the State election board until he heard from Oklahoma City by telephone message. We adjourned and then I went home. The other members said they were going home and I also told them I was going home.

Q. Did they say—either one of the other members of the election board—say anything to you about the work all being done and being through, except signing up by Mr. Hogan?—A. Mr. Mosley did.

Q. Did Mr. Mosley tell you from whom he was expecting a telephone message from Oklahoma City?—A. Said Mr. Hogan was expecting one from Mr. Gould, Mr. Carney's manager.

Q. Do you know whether or not Mr. Hogan had been telephoning to Mr. Gould before that time?—A. He had been phoning to Oklahoma City, but I could not say whether or not he had talked with Mr. Gould.

Q. Did you go home on the evening of the 7th?—A. Yes, sir.

Q. When next did you return to Watonga?—A. On the next Wednesday, the 13th.

Q. What time of day did you arrive in Watonga?—A. About 9 o'clock.

Q. What caused your return?—A. The chairman of the Republican central committee notified me that the election board was in session again, and they had been called to Oklahoma City and had come back to this county and was going to throw out some of the voting precincts of this county.

Mr. EMERY. We move to strike out the answer of the witness as incompetent.

Q. What did you do upon your return here to Watonga?—A. I tried to find the election board. They wasn't at their office. I also phoned to different places and couldn't find them.

Q. Did you phone to Mr. Mosley's home?—A. Yes, sir.

Q. Did you phone to Mr. Hogan's home?—A. No, sir.

Q. Did you make inquiries as to their whereabouts?—A. Yes, sir.

Q. Were you in town in Watonga all that day?—A. Yes, sir.

Q. When did you return home?—A. On the 5.35 train that evening.

Q. Did you go in the room which had been used by the county election board in tabulating the votes the week before?—A. No; the door was locked.

Q. Did you have a key to this room?—A. No, sir.

Q. Did you look inside the room through the window?—A. Yes, sir.

Q. Were the election boxes in there?—A. Yes, sir.

Q. When next did you return to Watonga?—A. The next day—the 14th.

Q. What did you do when you returned to Watonga on the 14th?—A. I went to the court house.

Q. Did you again try to enter the room that had been used by the county election board?—A. Yes, sir.

Q. What all did you do that day?—A. I found the members in the county treasurer's office.

Q. State what conversation you had with them at that time.—A. Well, I asked them to go down to the election board's office, which they did, and they told me they had thrown out 11 voting precincts.

Q. What precincts did they say they had thrown out?—A. Had thrown out Carlton, precinct No. 29; Canton, precinct No. 23; Arapaho, precinct No. 8; Watonga Township, precinct No. 20; Cedar Valley, precinct No. 6; East Dixon, precinct No. 9; West Dixon, precinct No. 28; West Lincoln Township, precinct No. 10; East Lincoln, precinct No. 30; Logan, precinct No. 12; and Flynn Township, precinct No. 13.

Q. Did they say anything to you about where they had been since the board had adjourned on the 7th of November, 1912?—A. Yes, sir; they said they had received notice to come to Oklahoma City and they went.

Q. Did they say to whom they had talked there?—A. Said they talked to Attorney General West; Gov. Cruce; Mr. Harrell, the Democratic chairman; Mr. Riley, secretary of the State election board; also Mr. Gould; and they were ordered to come back here for an investigation. They came back, made an investigation, and went back to Oklahoma City.

Q. Did they say who they had talked with when they returned from Oklahoma City the second time?—A. Well, I don't know as they did; I presume it was the same parties.

Mr. EMERY. We move to strike out the last answer of the witness as a conclusion.

Q. Whom did they say had told them to throw out these boxes?—A. Well, they said the governor. I said, "Did the governor tell you to throw out these precincts?" And he said if things was the way they were represented he thought he had authority to.

Q. By "he" you mean Gov. Cruce?—A. Yes, sir—and also Attorney General West.

Q. What other conversation did you have with either Mr. Mosley or Mr. Hogan concerning the throwing out of these 11 boxes, or the vote in these 11 precincts?—A. Mr. Mosley said the reason that they didn't notify me was because they wanted to get ahead of mandamus proceedings. If they told me, I would tell what went on.

Q. State any other conversation you had with either Mr. Mosley or Mr. Hogan on this occasion.—A. Well, there were other things talked about, but I don't just remember.

Q. Did they say anything about making up a new tabulated statement to send to the State board?—A. I think they said they had made out a tabulated statement, with 11 precincts not shown.

Q. When did Mr. Mosley or Mr. Hogan say they had made up this new certificate leaving out the 11 precincts to send to the State board?—A. To the best of my recollection, it was Wednesday night.

Q. That was the 12th?—A. Yes; Wednesday, anyway.

Q. Between what hours did they say they had made it out?—A. I think they said they arrived in Watonga that evening.

Cross-examination by Mr. EMERY:

Q. Mr. Broady, directing your attention to the meeting of November 7, the evening that you state in your testimony the certificates were made out, state fully what was said and done by yourself and Messrs. Hogan and Mosley on your separating.—A. When the certificates were signed I asked the members if the business was all done, and they said it was all done, except Mr. Hogan signing the certificates of election, and also the State tally sheet; and I said if we were all through with me I was going home on the 5.35 train. Mr. Mosley said he was going home, and I supposed that was an agreement, but I said when I left, "If anything happens, notify me."

Q. Was there any motion made to adjourn?—A. No, sir.

Q. When you separated only one member of the county election board had signed the certificate, and that was Mr. Mosley?—A. Mr. Mosley and myself.

Q. When you say that you signed the certificate, you have reference to the certificates on the county tickets?—A. Yes, sir.

Q. On the State certificate and tally sheets was there any place for you to sign?—A. No, sir.

Q. Now, on the State tally sheets and certificate that one member had signed, on the board separating on the evening of November 7, that was Mr. Mosley?—A. Yes, sir.

Q. You state in your testimony that you were going home and Mr. Mosley was going home, but what was Mr. Hogan going to do?—A. He said he was going home.

Q. Mr. Hogan was chairman of the board?—A. Yes, sir.

Q. There was a place or line on the State certificates and tally sheets for the chairman to sign?—A. On the State certificate there was.

Q. Why didn't Mr. Hogan sign the State certificate before the three members of the board went home?—A. Well, I don't know positively.

Q. It would be necessary for Mr. Hogan to sign the State certificate before sending the same, together with the tally sheet, to the State election board?—A. I think it would be necessary for him to sign the certificate; sure.

Q. What reason did Mr. Hogan give for not signing the certificates before the three members of the board went home?—A. He said we had not counted the mutilated ballots.

Q. Anything else?—A. I think he said that he had a call into Oklahoma City and he wanted to hear from that.

Q. Anything else?—A. That is all.

Q. Now, Mr. Broady, didn't Mr. Hogan say that he would not sign the certificate because there would have to be an investigation concerning the conduct of the election in some of the precincts?—A. Not to my recollection he didn't.

Q. If he did say it you did hear it?—A. No, sir.

Q. What did Hogan say he had this call into Oklahoma City for?—A. He didn't tell me.

Q. At this time, on November 7, 1912, how long had you been serving on the county election board?—A. I believe something over a year; about a year, I guess.

Q. During this time you have attended more or less of the meetings of the county election board?—A. Yes.

Q. Was it not the custom, if not the rule, to make a formal motion to adjourn before separating and going to your home?

Mr. MORGAN. Objected to as calling for a conclusion of the witness and not for a statement of the fact and calling for a custom.

A. It was not.

Q. Have you ever examined the minutes of the county election board, and if so, have you found any record of adjournments?—A. I haven't examined the record.

Redirect examination by Mr. MORGAN:

Q. To what political party, if you know, do Mr. Hogan and Mr. Mosley belong?—A. Democratic.

Q. Regarding the custom of the county election board of Blaine County, I will ask you has it been the custom upon the adjournment of its sessions to have any formal motion to adjourn made?—A. No, sir; not since I have been a member; except on the 13th I asked for a motion adjourning the county election board.

Q. Are you acquainted with the signatures of Mr. Dan Hogan and Mr. Tom Mosley?—A. Well, I don't think I'd know Mr. Hogan's, but I think I'd recognize Mr. Mosley's.

Recross-examination by Mr. EMERY:

Q. How many meetings of the county election board had you attended before the meetings in November, 1912?—A. I would say three.

W. C. BROADY.

Subscribed and sworn to before me this 27th day of February, A. D. 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

T. W. MOSLEY, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name and residence.—A. T. W. Mosley, Blaine County, Okla.

Q. How long have you lived in Blaine County?

(Now Capt. Emery informs the witness of his rights under the Constitution of the United States of refusal to answer any question or questions propounded to him concerning the election held in this county in November, 1912, on the account of the criminal action growing out of said election now pending and undetermined in the United States District Court for the Western District of Oklahoma, for the reason that the said evidence might be used in the said action against him, and might in some way incriminate him.)

(Porter H. Morgan, attorney for contestee, now states to the witness that the following is section 116 of the Revised Statutes of the United States of America, to wit:

"Any person who, having been summoned in the manner above directed, refuses or neglects to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of \$20, to be recovered with costs of suit by the party at whose instance the subpoena was issued and for his use by an action of debt in any court of the United States, and shall also be liable to an indictment for a misdemeanor and punished by a fine and imprisonment."

(Capt. Emery informs the witness that the statute just read by counsel for the contestee has no application to a witness under prosecution for violating the criminal statutes growing out of the election concerning which he will be interrogated by the contestee.)

A. About 20 years in Blaine County, Okla.

Q. What, if any, official position did you hold in Blaine County, State of Oklahoma, on the 5th day of November, 1912?

Mr. EMERY. The opinion of counsel for the contestant as to whether or not the witness was secretary of county election board is a material allegation in the indictment, and the burden is upon the United States to prove it.

Mr. MORGAN (to Mr. Emery). Are you here as counsel for the contestant herein, John J. Carney?—A. Yes.

Q. Have you been and are you now counsel for the witness, T. W. Mosley, in the matter in the Federal District Court of the Western District of the State of Oklahoma, in which Mr. Mosley is defendant?—A. I have never appeared for Mr. Mosley as counsel.

Q. Mr. Mosley, were you at the courthouse in Blaine County, State of Oklahoma, on the evening of November 5, 1912?—A. (No answer.)

Mr. MORGAN. The witness, by failing and neglecting to answer the questions propounded to him and his acquiescence in the objection by Mr. Emery to testifying herein, an adjournment is taken by order of the notary public until 8.30 o'clock a. m., February 28, at which time the witness not appearing, proceedings were had as hereafter set out herein. The witness appearing at 10.30 o'clock a. m., February 28, and refusing further to testify, he was excused from giving further evidence.

TOM MOSELEY.

Subscribed and sworn to before me this 28th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

E. H. LOOKABAUGH, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name and residence?—A. E. H. Lookabaugh, Watonga, Okla.

Q. Did you reside in Watonga during the month of November, 1912?—A. Yes, sir.

Q. What, if any, official position did you hold in the Republican Party during the campaign in the fall of 1912?—A. Chairman of Blaine County Republican central committee.

Q. Were you acquainted in the fall of 1912 with Tom Mosley, secretary of the county election board of Blaine County, and Dan Hogan, chairman of the county election board of Blaine County, Okla.?—A. I was.

Q. State what, if any, conversation you had with either Mr. Mosley or Mr. Hogan on or about the 8th of November, 1912, and state where the conversation was had and in whose presence.—A. I had a conversation with Tom Mosley, secretary, about the 8th of November, at which time I inquired of him why it was that the certificates of election had not been issued and the returns transmitted to the State election board on State and congressional candidates for Blaine County by the election board, and whether or not there was any truth in the rumor that they were intending to throw out several precincts in Blaine County, and in answer to this Mr. Mosley stated that he didn't think there was anything in the rumor as to the throwing out of precincts and thought everything would be all right in that line, but further stated that there was some objection being made and claims made that there had been illegal votes cast in some of the precincts in the county, and the matter was being held up pending an investigation of those matters.

Q. When next did you have a conversation with either Mr. Mosley or Mr. Hogan?—A. About the 10th of November, further inquiring of Mr. Mosley as to what was being done, and why the certificates and returns were delayed. He stated to me that they were making an investigation in several precincts for the purpose of ascertaining whether or not the illegal votes had been cast and

the grandfather clause not enforced as to negroes, and stated to me at that time that it was his understanding that if a negro voted without having first been put to the test under the grandfather law that the vote was illegal, notwithstanding the fact that the local election board may have been satisfied that he was eligible under that law.

Q. When next did you have a conversation with either Mr. Hogan or Mr. Mosley concerning this matter, and what was the occasion of your having the conversation with them?—A. On the morning of the 13th of November, I think it was, after the information had gotten out and became public that 11 precincts of Blaine County had not been counted in the final certificate of return, I, in company with Harrison Brown, the congressional committeeman, went to see Mr. Hogan and Mr. Mosley, who were together, and asked them whether or not it was a fact that these precincts had been thrown out, at which time, and while they were together Mr. Mosley stated to us that it was a fact, and that 11 precincts was the number that they had refused to certify, but stated further that in his judgment they should have thrown out 16 precincts, and on being asked by myself why he didn't do so, he stated that he couldn't get them to do it. A short time after this, on the same day, myself, together with a number of the other Republicans, chief among whom were Harrison Brown, E. J. Warner, W. H. Phillips, Seymour Foose, and Theodore Graalman, Louis Vogt, W. F. Schultz, and others met Mr. Hogan and Mr. Mosley at Hooper's drug store in Watonga and asked whether or not the board was in session, at which time we were informed by them that they were not, but they could convene at any time, whereupon we asked of them if we could not be shown the records, returns, and minutes of their proceeding in the matter of refusing to count the returns of these 11 precincts. Mr. Hogan and Mr. Mosley then accompanied us to the office of the county election board and allowed us to get the information we desired.

Q. Did they show you a statement prepared by them, or by the board of the result of the vote in all the precincts in Blaine County on a sheet used for making the return of the votes on the State ticket to the State election board?—A. I don't believe that I saw that certificate.

Q. Did you see the returns from these 11 precincts which had been thrown out?—A. I did. I saw each certificate as certified by the local board and official counters.

Q. That is, you saw the certificate made by the precinct election board as to the result in each precinct, of the votes cast for State officers, among which was the vote for Congressman in the second district of the State of Oklahoma, of the following precincts, to wit, Arapaho Township, precinct No. 8; Watonga Township, precinct No. 20; Cedar Valley Township, precinct No. 6; East Dixon Township, precinct No. 9; West Dixon Township, precinct No. 28; Canton Township, precinct No. 23; West Lincoln Township, precinct No. 10; Carlton Township, precinct No. 29; East Lincoln Township, precinct No. 30; Logan Township, precinct No. 12, and Flynn Township, precinct No. 13, all in Blaine County, State of Oklahoma?—A. No, sir; we did not look for certificates of the State and Congressional returns.

Q. Did Mr. Mosley or Mr. Hogan say anything about having been to Oklahoma City?—A. Yes, Mr. Mosley told me that they went to Oklahoma City.

Q. What, if anything else, did he say concerning their being at Oklahoma City?—A. He said they were called to Oklahoma City by the State election board in regard to these claimed illegal votes.

Q. Did Mr. Mosley or Mr. Hogan say whom they had talked with in Oklahoma City?—A. I don't think Mr. Mosley stated just whom he talked to, but said that he had seen Riley, secretary of the State election board, and others higher in authority in regard to these matters.

Q. Did you have any other conversation with Mr. Mosley concerning this matter?—A. Nothing of any importance that I can remember of.

E. H. LOOKABAUGH.

Subscribed and sworn to before me, this 28th day of February, A. D. 1913.

[SEAL.]

THEODORE GROALMAN, *Notary Public*.

My commission expires January 17, 1915.

SEYMOUR FOOSE, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies:

Q. State your name and residence and business.—A. Seymour Foose, Watonga, Blaine County, Okla.; I am engaged in practicing law.

Q. How long have you lived in Watonga?—A. It will be 21 years the 19th of next April.

Q. Are you acquainted with Tom Mosley and Dan Hogan, members of the county election board of Blaine County, Okla.?—A. Yes.

Q. I will ask you to state whether or not, on or about the 13th day of November, 1912, you had a conversation with them?—A. I did.

Q. Where did this conversation take place and who were present?—A. The conversation began at Hooper's drug store, in Watonga, and was continued at the courthouse after going there from the drug store.

Q. Who were present during these conversations?—A. Well, during a part of the time different persons were present. There were some more present at the courthouse than there were at the drug store. I can name several who were present at the courthouse. They were E. H. Lookabaugh, W. H. Phillips, Harrison Brown, E. J. Warner, E. N. Pierson, Louis Vogt, and possibly some others. These parties were not all present all of the time, but part of them were present a part of the time.

Q. State what conversation took place between yourself and either Mr. Mosley or Mr. Hogan on this occasion, or between other persons besides Mr. Hogan or Mr. Mosley?—A. Upon finding Mr. Hogan and Mr. Mosley at the drug store, they were asked if they would go to the courthouse and show us the books, papers, and records of the county election board. They said they would and went with us to the courthouse. I asked to be shown their minute book containing the record of their proceedings as a board, and also the election returns from the 11 precincts that they had thrown out and refused to count. They took us into the room in the basement of the courthouse and from a desk took or produced their minute book and the election returns asked for, and we there examined the same. There was other conversations back and forth, all of the details of which I do not recall exactly; but Mr. Mosley, upon producing the minute book, said that was the book in which he had entered the proceedings of the board taking place since the election. I asked him if it contained all the minutes of their proceedings that he had made, and he said it did. As the election returns of the 11 precincts asked for were produced by Mr. Mosley, he stated that they were the returns that the board had received from those several precincts. I asked him if they had completed their canvas and made out and delivered the certificates of election to the county candidates and certified their returns on the State ballot, including candidates for Congress, to the State election board, and he answered they had. I then asked him when this was done, and he answered they had all been put in the mail. I asked him when they were mailed, and he said, hesitating, "Yesterday evening." I asked him if they had gone out from the post office yet, and he said he didn't know. I asked him what time in the evening they were mailed, and he answered they had all been put in the mail.

Q. Did he state to you whether or not, as regards the returns of the county election board of Blaine County to the State election board of Oklahoma, they had left out the vote in these 11 precincts?—A. He did, in substance. He said that they had thrown out these 11 precincts and had not counted them in making up the vote, either on Congressman or on the county ticket.

Q. At the time of your examination of the minute book shown to you by Mr. Mosley did you take any copy of what was there shown?—A. I took a copy of everything that was in the minute book subsequent to the date of the general election in November, 1912.

Q. Have you in your possession the copy of that record that you took at that time: and if so, please produce it?—A. I have, and I here produce it.

(Contestee now asks that the two sheets produced by the witness be marked "Contestee's Exhibit 14.")

Q. This Exhibit 14 you copied directly from the record of the county election board of Blaine County, did you?—A. I did in my own handwriting and was very careful to copy the record exactly and verbatim.

Q. At the top of the first sheet are the words "Watonga 6-1912." I will ask you what, if any, explanation Mr. Mosley, the secretary of the county election board, made to you as to that entry?—A. While making this copy I called his attention to this date line, and he said that it meant November 6, 1912, that he had omitted the name of the month by mistake.

Q. When you speak about the 11 precincts that were thrown out you have reference to Arapaho Township, precinct No. 8; Watonga Township, precinct No. 20; Cedar Valley Township, precinct No. 6; East Dixon Township, precinct No. 9; West Dixon Township, precinct No. 28, Canton Township, precinct No. 23;

West Lincoln Township, precinct No. 10; Carlton Township, precinct No. 29; East Lincoln Township, precinct No. 30; Logan Township, precinct No. 12; and Flynn Township, precinct No. 13, all in Blaine County, State of Oklahoma, do you not?—A. Yes, sir.

SEYMOUR FOOSE.

Subscribed and sworn to before me this 28th day of February, A. D. 1913.

[SEAL.]

THEODORE GRAALMAN, *Notary Public*.

My commission expires January 17, 1915.

CONTESTEE'S EXHIBIT 14.

WATONGA, 6-1912.

The Blaine County election board met for the purpose of receiving the returns from the various precincts of the county and to make an official count of the returns:

Morgan, Dick	1,351
Carney, J. J.	1,171
	<u>180</u>
Carley	1,063
Warner, E. J.	1,438
	<u>375</u>
Kelly, Dr.	1,053
Jameison	1,366
	<u>313</u>
Capital, No. 40:	
Yes	840
No	1,532
School No. 45:	
Yes	1,200
No	911
Agriculture, 38:	
Yes	2,107
No	1,127
	<u>980</u>

T. W. MOSLEY.

WATONGA, OKLA., Nov. 8, 1912.

The official returns as shown after 11 precincts were thrown out on account of the election law not being enforced leaves the official returns as follows:

Carney	814	Kelly	711
Morgan	772	Jamison	825
Carley	721	Long	395
Warner	849		

T. W. MOSLEY.

SUBPŒNAS.

STATE OF OKLAHOMA, *Blaine County, ss:*

W. C. BROADY:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify

as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named W. C. Broady by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

TOM MOSLEY:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you the returns received from the precinct election boards of the following precincts, to wit: Arapahoe Township, Watonga Township, Cedar Valley Township, East Dixon Township, West Dixon Township, Canton Township, West Lincoln Township, Carlton Township, East Lincoln Township, Logan Township, Flynn Township, all in Blaine County, State of Oklahoma, by the county election board of Blaine County, State of Oklahoma, of the result of the general election held in said voting precincts on the 5th day of November, 1912, as between candidates for offices on the State ticket, together with the tally sheets used by said precinct election boards at said election as to said candidates, and all books kept by the county election board of Blaine County, State of Oklahoma, showing the record of the action of the said last-named board in respect to the canvass of the returns of the said election pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expire January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named Tom Mosley by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

E. R. TAYLOR:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify

as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you the returns received from the precinct election boards of the following precincts, to wit: Arapahoe Township, Watonga Township, Cedar Valley Township, East Dixon Township, West Dixon Township, Canton Township, West Lincoln Township, Carlton Township, East Lincoln Township, Logan Township, Flynn Township, all in Blaine County, State of Oklahoma, by the county election board of Blaine County, State of Oklahoma, of the result of the general election held in said voting precincts on the 5th day of November, 1912, as between candidates for offices on the State ticket, together with the tally sheets used by said precinct election boards at said election as to said candidates, and all books left by the county election board of Blaine County, State of Oklahoma, showing the record of the action of the said last-named board in respect to the canvass of the returns of the said election pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof, fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named E. R. Taylor by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

JAMES DIMMITT:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein and not depart without leave of the undersigned.

Hereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this 24th day of January, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named James Dimmitt by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

A. L. SLAYTON:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify

as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of the return of the Canton Township precinct election board showing the results of the election held therein November 5, 1912, as to candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named A. L. Slayton by delivering a true and correct copy of the same to him (A. L. Stayton) on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To F. A. WALLEN,

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within named F. A. Wallen, by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To L. R. HOWELL.

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County*, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within named L. R. Howell, by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

To JOHN MCGEE.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of the returns of the Carlton Township precinct election board showing the result of the election held therein November 5, 1912, as to candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named John McGee by delivering a true and correct copy of the same to the said John McGee on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

To HENRY SPREITZER.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of the returns of the East Lincoln Township precinct election board showing the results of the election held therein on November 5, 1912, as to candidates on the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof, fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within named Henry Spreitzer

by delivering a true and correct copy of the same to the said Henry Spreitzer on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To WILLIAM HAGAN.

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within named William Hagan by delivering a true and correct copy of the same to the said William Hagan on the 24th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To J. R. WHISLER.

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of return of Arapahoe Township precinct election board showing the result of the election held in said precinct on November 5, 1912, as to candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof, fail not, under penalty of law.

In witness whereof, I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within named J. R. Whisler, by delivering a true and correct copy of the same to the said J. R. Whisler on the 24th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To WILLIAM CARTER.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named William Carter by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To C. E. ALBIN.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you * * * pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named C. E. Albin by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To JOHN B. LEMON.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m. to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant, and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you * * * pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires 17th day of January, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named John B. Lemon by delivering a true and correct copy of the same to him on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
By E. N. PEARSON,
His Deputy.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To R. I. TEMPLE.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant, and Dick T. Morgan is contestee, on the part of the contestee therein and bring with you copy of the return of the Watonga Township precinct election board, showing the result of the election held in said precinct on November 5, 1912, as to candidates on the State ticket pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires 17th day of January, 1915.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named R. I. Temple by delivering a true and correct copy of the same to the said R. I. Temple on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
By E. N. PEARSON,
His Deputy.

Fee, 75 cents.

STATE OF OKLAHOMA.

Oklahoma County, ss:

To A. L. ENNEN:

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of the returns of the West Lincoln Township precinct election board showing the results of the election held therein November 5, 1912, as to candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA,
Oklahoma County, ss:

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within-named A. L. Ennen by delivering a true and correct copy of the same to the said A. L. Ennen on the 26th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
By CHAS. M. KELLEY,
His Deputy.

Fee, 75 cents.

STATE OF OKLAHOMA,
Blaine County, ss:

To J. A. DUNN:

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you a copy of the returns of Logan Township precinct showing the result of the election held therein on November 5, 1912, as between candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires 17th day of January, 1915.

STATE OF OKLAHOMA,
Blaine County, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named J. A. Dunn by leaving a true and correct copy of the same at his usual place of residence on the 26th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
By CHAS. M. KELLEY,
His Deputy.

Fee, 75 cents.

STATE OF OKLAHOMA, *Blaine County, ss:*

To E. T. DAVIS.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpœna on the 24th day of February, 1913, and served the same upon the within-named E. T. Davis, by leaving a true and correct copy of the same at the usual place of residence of E. T. Davis, on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma,

By CHAS. M. KELLEY,

His Deputy.

Miles traveled, 25, \$2.50; fee, \$0.75; total, \$3.25.

STATE OF OKLAHOMA, *Blaine County, ss:*

To W. E. THOMPSON.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpœna on the 24th day of February, 1913, and served the same upon the within-named W. E. Thompson, by delivering a true and correct copy of the same to him on the 26th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma,

By CHAS. M. KELLEY,

His Deputy.

Miles traveled, 18, \$1.80; fees, \$0.75; total, \$2.25.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

To GEORGE H. BUTLER.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you copy of the return of the Cedar Valley Township precinct election board, showing the results of the election held November 5, 1912, as to candidates upon the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within-named George H. Butler by delivering a true and correct copy of the same to the said George H. Butler on the 25th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma,

By CHAS. M. KELLEY,

His Deputy.

Miles traveled, 22, \$2.20; fee, \$0.75; total, \$2.95.

STATE OF OKLAHOMA, *Blaine County, ss:*

To FRED STRONG.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 27th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within-named Harvey Laughlin, delivering a true and correct copy of the same to him on the 26th day of February, 1913.

LEE A. AKIN,

Sheriff of Blaine County, State of Oklahoma,

By CHAS. M. KELLEY,

His Deputy.

Miles traveled, 40, \$4; fee, \$0.75; total, \$4.75.

STATE OF OKLAHOMA, *Blaine County, ss:*

To HARVEY LAUGHLIN.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you ——— pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 25th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,

Notary Public, Blaine County, State of Oklahoma.

My commission expires 17th day of January, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 24th day of February, 1913, and served the same upon the within-named Harry Laughlin, by delivering a true and correct copy of the same to him on the 26th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma,
 By S. L. BENDER,
His Deputy.

Miles traveled 20, \$2; fee, \$0.75; total, \$2.75.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

To R. G. RYCROFT.

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you copy of the returns of the East Dixon Township precinct election board showing the result of the election held therein on November 5, 1912, as to candidates on the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named R. G. Rycroft, by delivering a true and correct copy of the same to the said R. G. Rycroft, on the 25th day of February, 1913.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma,
 By S. L. BENDER,
His Deputy.

Miles traveled, 18, \$1.80; fee, \$0.75; total, \$2.55.

STATE OF OKLAHOMA,

Oklahoma County, ss:

To F. A. KNOTT:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and bring with you copy of the return of the West Dixon Township precinct election board showing the results of the election held in said precinct on November 5, 1912, as to candidates on the State ticket, pertaining to certain matters in controversy between said parties, and not depart without leave of the undersigned.

Whereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and official seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA,

Oklahoma County, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named F. A. Knott by delivering a true and correct copy of the same to the said F. A. Knott on the 25th day of February, 1913.

Miles traveled, 23, \$2.30; fee, \$0.75; total, \$3.05.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
 By S. L. BENDER,
His Deputy.

STATE OF OKLAHOMA,

Blaine County, ss:

To WILLIAM DYKE:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall, in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not, under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

STATE OF OKLAHOMA,

Blaine County, ss:

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within-named William Dyke by delivering a true and correct copy of the same to the said William Dyke on the 25th day of February, 1913.

Miles traveled, 14, \$1.40; fee, \$0.75; total, \$2.15.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
 By S. L. BENDER,
His Deputy.

STATE OF OKLAHOMA, *Blaine County, ss:*

To W. L. BEALS:

You are hereby commanded to appear before the undersigned at the Knights and Ladies of Security Hall in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m., to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within named W. L. Beals by

delivering a true and correct copy of the same to the said W. L. Beals on the 25th day of February, 1913.

Miles traveled, 14, \$1.40; fee, \$0.75; total, \$2.15.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
 By S. L. BENDER,
His Deputy.

STATE OF OKLAHOMA, *Blaine County, ss:*

To J. L. FRENCH, Sr.:

You are hereby commanded to appear before the undersigned, at the Knights and Ladies of Security Hall in the city of Watonga, county of Blaine, State of Oklahoma, on the 26th day of February, 1913, at 8 o'clock a. m. to testify as a witness in a certain action or contest pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, on the part of the contestee therein, and not depart without leave of the undersigned.

Hereof fail not under penalty of law.

In witness whereof I have hereunto set my hand and affixed my seal this the 24th day of February, 1913.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

Commission expires January 17, 1915.

STATE OF OKLAHOMA, *Blaine County, ss:*

I hereby certify that I received the within subpoena on the 25th day of February, 1913, and served the same upon the within named J. L. French, sr., by delivering a true and correct copy of the same to the said J. L. French, sr., on the 25th day of February, 1913.

Miles traveled, 24, \$2.40; fee, \$0.75; total, \$3.15.

LEE A. AKIN,
Sheriff of Blaine County, State of Oklahoma.
 By S. L. BENDER,
His Deputy.

I, Theodore Graalman, notary public within and for the county of Blaine, State of Oklahoma, do hereby certify that Harvey Laughlin, William Dyke, R. I. Temple, George H. Butler, R. G. Rycroft, W. L. Beals, F. A. Knott, A. L. Slayton, F. A. Wallen, A. L. Ennen, W. E. Thompson, John McGee, J. C. Dimmett, John B. Lemon, Henry Spreitzer, F. W. Carter, C. E. Albin, J. A. Dunn, L. R. Howell, Tom Mosley, W. C. Broady, E. H. Lookabaugh, Seymour Foose, and E. R. Taylor, the witnesses whose names are severally subscribed to the foregoing deposition and evidence were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the said above entitled cause; that the depositions and evidence and testimony given by them, respectively subscribed, were reduced to writing by R. J. Carroll, a disinterested person, in my presence and subscribed by the respective witnesses in my presence; that the same was taken on the 26th, 27th, and 28th days of February, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said days at the Knights and Ladies of Security Hall, on the south side of Main street, in block 65 of Watonga, city of Watonga, county of Blaine, State of Oklahoma, as specified in the notice to take said evidence hereto attached; that I caused the testimony of the witnesses, together with the questions propounded to them by Porter H. Morgan, one of the attorneys for the contestee, and the questions propounded by the Hon. A. L. Emery, attorney for the contestant in said cause, together with the objections offered by said attorneys for the respective parties to be reduced to writing in my presence and in the presence of said attorney, and to be duly attested by the said witnesses respectively; that I am not related to either of the parties in said cause and am not attorney for either of them, and I am not interested in the result of said action, financially or otherwise.

[SEAL.]

THEODORE GRAALMAN,
Notary Public, Blaine County, State of Oklahoma.

My commission expires January 17, 1915.

NOTICE TO TAKE DEPOSITIONS.

The said John J. Carney and his attorneys of record, Giddings and Giddings, will take notice that on Monday, March 17, 1913, at the office of E. L. White, notary public, in and for the District of Columbia, United States of America, at the office of the said notary public, in the Pacific Building, No. 622 F street, northwest, in the city of Washington, D. C., between the hour of 8 a. m. and the hour of 6 p. m. of said day, the said contestee, Dick T. Morgan, will take the evidence of the following witnesses, said evidence and depositions to be used in the above entitled cause, to wit: Dick T. Morgan, residence, Woodward, Okla. Barritt Galloway, residence, Oklahoma City, Okla., and other witnesses. The said testimony and depositions and the taking of the same will be adjourned and continued from day to day at the same time and place before the same officer, and between the same hours until the same are completed.

DICK T. MORGAN,
By MORGAN & DEUPREE,
His Attorneys.

Service of the above notice acknowledged to have been made upon the undersigned, and the receipt of a true and correct copy thereof acknowledged to have been received by the undersigned this the 10th day of March, 1913.

GIDDINGS & GIDDINGS,
Attorneys for Contestant.

DISTRICT OF COLUMBIA, ss:

Be it remembered that under and in pursuance of the notice given and served in the above-entitled cause, the original of which is attached hereto and returned as a part hereof, at an examination of witnesses begun and held on the 17th day of March, in the year 1913, agreeably to the terms of said notice, personally came and appeared before me, E. L. White, a notary public for the District of Columbia, residing and acting in that office in said District, at my office, in the Pacific Building, at No. 622 on F. Street NW., in the city of Washington, in said District, the within named Dick T. Morgan and Barritt Galloway, who, being produced as witnesses for and on behalf of the contestee, Dick T. Morgan, in the above-entitled cause, and being first severally and separately duly sworn and cautioned to tell the truth, the whole truth, and nothing but the truth touching matters at issue in the said above-entitled cause, did severally and separately depose and say as follows:

WASHINGTON, D. C.,
Monday, March 17, 1913—2 o'clock p. m.

Met pursuant to notice at the office of the notary, in the Pacific Building.

Present: Louis T. Michener, Esq., on behalf of the contestee, Dick T. Morgan; the contestee and witness, Dick T. Morgan; and the witness, Barritt Galloway. No appearance of or on behalf of the contestant.

Whereupon, DICK T. MORGAN, a witness of lawful age, called by and on behalf of the contestee, having been first duly sworn, is examined by—

Mr. MICHENER:

Q. State you name, age, and residence.—A. My name is Dick T. Morgan. My age is 59. My residence is Woodward, Okla.

Q. What official position, if any, do you occupy?—A. Since March 4, 1909, I have been a Representative in the Congress of the United States from the second congressional district, State of Oklahoma, and was reelected to the Sixty-third Congress, which term of service began March 4, 1913.

Q. The election you speak of was in November of last year?—A. The election took place the 5th day of November, 1912, and was the general election of that year.

Q. Of what political party were you a candidate then?—A. I was the candidate of the Republican Party for Representative in Congress from the said district.

Q. Who were your opponents?—A. My Democratic opponent was John J. Carney, and the Socialist candidate was P. D. McKenzie.

Q. What political party had control of the election machinery of your State in that election?—A. The Democratic Party had control of all the election

machinery at that time and at that election in the State of Oklahoma. The governor of the State, who has been a Democrat since the statehood of Oklahoma, appoints the State election board, which consists of three persons, a majority of whom are Democrats. The State election board appoints all county election boards, which consist of three persons, a majority of whom are Democrats, and a county election board appoints all precinct election boards, which consist of three persons, a majority of whom are Democrats.

The Democrats of the State therefore have full charge and control of the entire election machinery of the State, from the State election board that grants the certificates of election to all State officers and Representatives in Congress down to the county and precinct election boards, which count the votes and certify the result from the precincts of the county and from county up to State election boards.

Q. State whether or not you in any way, directly or indirectly, in person or through your friends, supporters, managers, or assistants, or through any political committee or any committeeman, or any other person, made any effort to induce negroes to vote at the November election, or encouraged negroes to vote at the November election, or advised negroes to vote at the said election who were not qualified to vote under the constitution and the laws of the State of Oklahoma.—A. I did not. In the campaign previous to the election on the 5th of November, 1912, I did not personally advise a single negro to vote or attempt to vote at said election unless he was qualified to vote under the constitution and the laws of the State of Oklahoma. I did not, directly or indirectly, through any of my friends, supporters, managers, or assistants, or through any political committee or committeeman, or any other person whatsoever, make any effort to secure or induce negroes to vote at said election who were not qualified to vote under the constitution and laws of the State. As I understood the law, the responsibility of determining who were qualified electors at said election and who were entitled to vote at said election rested entirely with the election officers, who had been appointed under the laws of the State, and I made no effort whatever with any election officers or officer to induce them to permit any person to vote who was not qualified under the constitution and laws of the State of Oklahoma. I did not advise any person or persons to encourage, aid, or assist any person in voting or to vote who was not qualified to vote under the State law. In fact, in that campaign I paid no attention whatever to the matter of aiding or assisting or encouraging in any way any person or persons to vote on election day except what I might have said in a general way in public speaking, advising all qualified electors to go to the polls and vote; but in no way, shape, or form did I participate in any effort or in any attempt to have any person, white or black, vote at said election who was not qualified to vote under the State laws.

Q. State whether or not any negroes voted at that election with your knowledge and consent, or with your approval, or under your advice, who were not qualified to vote under the constitution and laws of the State of Oklahoma.—A. They did not. If there was a single negro in the second congressional district of the State of Oklahoma at the election of November 5, 1912, voted who was not qualified to vote under the constitution and laws of the State of Oklahoma he did so absolutely without my knowledge, consent, approval, and advice. And if there was a single election officer in the district who did not do his full duty and enforce the law he did so without my approval, consent, knowledge, or connivance.

Q. In the notice of contest served on you by John J. Carney reference is made to what is known as the grandfather clause in your State constitution. You may state what that is and how it is generally understood.—A. In 1910 the constitution of the State of Oklahoma was amended, which in effect provided that no person should be registered as an elector or be allowed to vote in the State unless he was able to read and write any section of the constitution of the State of Oklahoma, with a proviso added to the foregoing that "No person who was on January 1, 1866, or at any time prior thereto entitled to vote under any form of government," etc., "shall be denied the right to register to vote because of his inability to so read and write a section of the constitution." It is generally understood that the latter clause limits the first proposition to apply only to negroes, or, in other words, a person whose grandfather voted is entitled to vote under the constitution of the State of Oklahoma, notwithstanding the fact that he can not read and write. It is generally understood that this amendment to the constitution was intended to prevent negroes who could not read and write any section of the constitution of the State from voting.

Q. In the notice of contest served on you by the contestant, John J. Carney, reference is made to an alleged letter that was written by one Homer N. Boardman, United States attorney, together with a certain alleged printed circular, which was entitled "Talk it over with your wife, Mr. Election Official." Please state what knowledge you have, if any, of such alleged letter and circular, and state any and all things you know about the printing and circulation of said alleged circular, and what, if anything, you had to do with the same.—A. I had no knowledge whatever of said alleged letter purported to have been written by Homer N. Boardman, United States attorney, or the alleged circular, until some time after the election held on the 5th of November, 1912. All I know about it now is through some reports that I have read in newspapers with reference thereto, and from knowledge I have received from the papers in this case. I do not know personally that any such letter was ever written by the said Homer N. Boardman. I did not consult with said Boardman about any such letter. He did not write any such letter with my knowledge, counsel, or advice, and if he wrote any such letter it was not written with my approval, advice, or consent. I had no knowledge whatever of the printing of the alleged circular referred to. The same was not printed with my knowledge, consent, or approval, and neither the said alleged letter or the said alleged circular were printed or circulated or published in any manner or form with my consent, knowledge, approval, or connivance. If such a letter was written, published, and circulated, or sent through the mails, or in any other way transmitted or delivered to any election officer or to election officers in my district, the said printing, circulation, and transmission through the mails was entirely and absolutely without my knowledge, consent, or approval. Such letter and circular I am sure was not printed or circulated by the committee that had my campaign in charge, and so far as I have been able to ascertain no person connected in any way with the management, control, and direction of my campaign had anything whatever to do with the printing, the circulation, and distribution of any such letter or circular.

Q. What, if anything, did you have to do with the registration of voters in the cities of your district?—A. I had nothing whatever to do with the registration of voters in the second congressional district. Under the laws of the State, as I understand them, in cities of the first class the voters must register in April preceding the election in order to be entitled to vote. No registration, however, is required in the country precincts. The registration officers in the various cities are appointed by the election board, which in all cases in the State at the present time, and at the time of the election in November, 1912, were under the control of the Democrats of the State. In other words, the registration officers in each city, ward, and precinct were Democrats, and, as I understand the law, had full power to test the qualifications of every voter when he applied for registration. If there were any negroes or others who were registered prior to the election in 1912 (in November, 1912) who were not qualified to vote under the constitution and laws of the State, it was done wholly and entirely without my knowledge or consent, and without my approval. Neither myself nor my friends, nor anyone acting for or in behalf of me, or with my knowledge, consent, or approval, made any attempt whatever to get any person, white or black, to be registered who was not legally qualified to vote.

Q. Who received the certificate of election as Representative in Congress from that district after the election was held last November?—A. The State election board delivered to me the certificate of election as Representative from the second congressional district in the State of Oklahoma in the Sixty-third Congress, and I delivered the same to the Clerk of the House of Representatives in the United States Congress.

Q. Do you know anything whatever about any election officer being intimidated by the letter or circular referred to in a previous question?—A. I do not. If any election officer in the second district was in any way intimidated by any letter or circular received through the mails or otherwise or by the act of any person or persons, the same was without my knowledge and consent, for I in no way was a party to any attempt to influence or control or intimidate any election officer in the performance of his duty.

Q. I will ask you if you have read the notice of contest served upon you or your attorneys by the contestant, John J. Carney, and if you are familiar with the charges and allegations therein made with reference to any fraud, irregularity, or illegal voting at any and all places throughout the second congressional district?—A. I am. I have read the copy that was served upon my

attorneys, and I am familiar with the various allegations and charges made therein. I desire to state that if there was a single illegal vote cast in said district at the election held on the 5th of November, 1912, the same was cast without my knowledge or consent, or connivance or approval. I therefore wish to state in general that so far as anything I did was concerned or that anything that was done with my approval or consent by anyone in my behalf was concerned, there was not a single person cast an illegal vote in that congressional district at said election.

Q. You may describe the political machinery that you have in your congressional district, so far as the Republicans are concerned, for conducting your congressional campaign.—A. Under the law and custom there is one congressional committeeman for each county in the congressional district, and these various committeemen constitute what is known as the congressional committee of the district. The committee meets and elects its own chairman, secretary, and treasurer. This committee does not get its power from the candidate, and its election is not controlled by the candidate. The committee is supposed during the campaign to have general charge of the campaign in behalf of the Republican Party for the election of a Republican Congressman from that district.

Q. In the second paragraph of the notice of contest there is set forth what contestant claims to be the number of votes received by you and by him. Is that statement correct? If not, you may state the exact number received by each.—A. The information which I have, I have of course obtained from examining the returns from the various counties and from reports received from the various counties in the congressional district. As I understand, according to the count of the State election board, on the face of the returns I had 663 plurality vote in the district over the contestant, John J. Carney. However, to this should be added 490 votes in Oklahoma County, and 214 votes from Blaine County, which were not certified or counted by the State election board, and yet to which I was justly entitled. If you add to the 663 votes 490 additional votes in Oklahoma County and 214 votes in Blaine County, which were cast for me but not counted, it would give me a plurality over John J. Carney in the district of 1,367 votes. I am giving this from the information which I have, but legal evidence thereof will I presume be placed in the record and will be found elsewhere.

DICK T. MORGAN.

Subscribed and sworn to this 17th day of March, A. D. 1913, before me, a notary public in and for the District of Columbia.

[SEAL.]

E. L. WHITE,

Notary Public for the District of Columbia.

And on the same day and at the same place—

BARRITT GALLOWAY, a witness of lawful age, called by and on behalf of the contestee, having been first duly sworn, is examined by—

Mr. MORGAN:

Q. State your name, age, residence, and occupation.—A. Andrew Barritt Galloway, aged 23 years, residence Oklahoma City, Okla.; occupation, private secretary to Representative Dick T. Morgan, from the second Oklahoma district.

Q. You have stated your full name. By what name are you commonly known?—A. Barritt Galloway.

Q. You may state what position, if any, you held in the Republican political organization of the second congressional district in the State of Oklahoma in the campaign of 1912.—A. I was secretary of the committee.

Q. Where did the committee have headquarters?—A. In the Baum Building, at Oklahoma City.

Q. As secretary of said committee, you may state what, if anything, you had to do with the management, direction, and control of said campaign in behalf of the election of Dick T. Morgan as Republican candidate to Congress from said district?—A. I will state that Mr. Gus Hadwidger, who was the chairman of the committee at the beginning of the campaign, spent something like a week at the headquarters, after which he left for his home at Alva, Okla. From that time until the close of the campaign I had charge of the headquarters; that the distribution and circulation of all printed matter that was sent out from the headquarters went out under my direction; that the clerks and stenographers in the headquarters were under my direction.

Q. Who, if anybody, was associated with you at said headquarters in aiding and assisting in directing said campaign in behalf of said Dick T. Morgan?—A. Porter H. Morgan.

Q. What relation is he to Dick T. Morgan?—A. He is a son of Dick T. Morgan.

Q. Was your relation to the management of said campaign and your knowledge of what was done by said committee in said headquarters such as would enable you to know what campaign matter and all campaign matter and material that was sent out during said campaign from said headquarters?—A. It was.

Q. State what opportunities you had for knowing what matter was mailed and distributed in any manner by said congressional committee.—A. I will state that I was in the headquarters each day during the campaign; that I had knowledge of all matter in the way of publications and pamphlets and letters which were distributed or circulated from the headquarters; that I laid out the work of such circulation and distribution and directed the sending out of such matter.

Q. I will ask you if you have read the allegation in the notice of contest that was served in this case by John J. Carney upon Dick T. Morgan, and that portion of said notice in which it is alleged that a certain letter was written by Homer N. Boardman, United States attorney, and that a certain alleged circular was printed which was entitled, "Talk it over with your wife, Mr. Election Official." and a charge that said alleged letter and said alleged circular was sent to the election officers of the said congressional district with the view and purpose of intimidating said election officers and thus preventing them from enforcing what is known as the "grandfather clause" of the State constitution as against negro voters?—A. I have read the same.

Q. You may state whether or not said alleged letter or any similar letter was printed, or circulated, or mailed by the Republican congressional committee of the second district of Oklahoma at any time during said campaign prior to November 6, 1912.—A. No such letter was printed, circulated, or mailed from the headquarters under my direction or with my consent or knowledge.

Q. Do you know whether or not such letter was printed, circulated, or mailed by said committee from said headquarters?—A. I know that no such letter was printed there or circulated from said headquarters.

Q. I will ask you to state if the alleged circular entitled "Talk it over with your wife, Mr. Election Officer." was printed, mailed, or distributed by the Republican congressional committee from said headquarters?—A. No such circular was printed, circulated, or mailed from the headquarters of the Republican congressional committee of the second district.

Q. State whether or not the Republican congressional committee had anything to do whatever, either with the writing, printing, circulation, or mailing of either the said alleged letter referred to or said alleged circular.—A. The committee had nothing to do whatever with said letter or circular, to my knowledge.

ANDREW BARRITT GALLOWAY.

Subscribed and sworn to this 17th day of March, A. D. 1913, before me ———, a notary public in and for the District of Columbia.

[SEAL.]

E. L. WHITE,

Notary Public for the District of Columbia.

DISTRICT OF COLUMBIA, ss.:

I, E. L. White, a notary public for the District of Columbia, do hereby certify that, in pursuance of the foregoing and annexed notice, the depositions of Dick T. Morgan and Barritt Galloway, hereto attached, were taken down in typewriting by a clerk by me appointed for that purpose in my presence and in the presence of the parties and their agents and attorneys attending as hereinbefore certified, from the statements when and as uttered by the respective deponents thereof, and were thereupon read over and subscribed by the respective deponents thereof in my presence.

I further certify that my fee, amounting to \$11, for taking, certifying, and returning said depositions have been paid to me by the contestee and that the same are just and reasonable.

And I further certify that I am not of counsel for either of the parties to, nor in anywise interested in, said cause or the result thereof.

In testimony whereof I have hereunto set my hand and affixed my seal of office this 31st day of March, A. D. 1913.

[SEAL.]

E. L. WHITE,

Notary Public for the District of Columbia.

NOTICE TO TAKE DEPOSITIONS.

The said John J. Carney and Giddings & Giddings, his attorneys of record, will take notice that on the 19th day of March, 1913, at the office of Morgan & Deupree, at rooms numbered 421-2-3, American National Bank Building, in Oklahoma City, Oklahoma County, State of Oklahoma, before Mary S. Stotler, a notary public in and for Oklahoma County, State of Oklahoma, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, the said contestee, Dick T. Morgan, will take the evidence of the following-named witnesses, the said evidence of the said witnesses to be used in the above-entitled cause, and that the taking of the said evidence and depositions will be continued and adjourned from day to day between the same hours at the same place and before the same officer until the same is completed, the names and addresses and residence of the said witnesses being as follows: Porter H. Morgan, 2228 West Fourteenth Street, Oklahoma City, Oklahoma County, State of Oklahoma; W. C. Broady, Okeene, Blaine County, State of Oklahoma; Ben W. Riley, corner Fourth and Walnut Streets, Oklahoma City, Oklahoma County, State of Oklahoma; B. O. Young, No. 1011 North Walber Street, Oklahoma City, Oklahoma County, State of Oklahoma.

DICK T. MORGAN, *Contestee.*

By MORGAN & DEUPREE,

His Attorneys.

Service of the above notice acknowledged to have been made upon the undersigned and the receipt of a true and correct copy thereof acknowledged to have been received by the undersigned this the 17th day of March, 1913.

GIDDINGS & GIDDINGS,

Attorneys for Contestant.

DEPOSITIONS.

Depositions of witnesses taken to be used in an action pending before the honorable House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee, in pursuance of the notice hereto attached and at the time and place therein stated, and the contestant appeared by his attorneys, Giddings & Giddings, and the contestee appeared by his attorneys, Morgan & Deupree, and thereupon the said contestee produced the following witnesses in order, to wit:

W. C. BROADY, who, being first duly sworn to testify to the truth, the whole truth, and nothing but the truth, deposeth and saith in answer to questions propounded to him, as follows, to wit:

Direct examination by Mr. MORGAN:

Q. State your name and residence.—A. W. C. Broady, Okeene, Blaine County, Okla.

Q. What, if any, official position did you hold in Blaine County, State of Oklahoma at the last general State election held in Blaine County, State of Oklahoma, on the 5th day of November, 1912?—A. Member of the county election board.

Q. Of Blaine County?—A. Yes, sir.

Q. Who were the other members of the county election board of Blaine County, State of Oklahoma, at said time?—A. Dan Hogan, chairman, and Tom Moseley, secretary.

Q. When, after said election, did the county election board of Blaine County meet, and where?—A. At the courthouse on the 5th of November.

Q. At about what hour?—A. About 6 o'clock, I suppose.

Q. In the afternoon?—A. Yes, sir.

Q. When, if at all, did you canvass the returns from the various precincts in Blaine County of the vote cast in said precinct for the various candidates upon the State ticket?

(Objected to by contestant as being incompetent, not the best evidence, the laws of the State of Oklahoma requiring that said election board shall keep the minutes of this proceeding.)

A. We canvassed them on the 6th and 7th.

Q. I will hand you this document and ask you to state what it is.—A. It is the official count of the returns returned by the precinct inspector of the county election board.

Q. Of Blaine County, State of Oklahoma?—A. Yes, sir.

Q. State fully just when, by whom, and by what method that sheet was made out.

(Objected to for the same reason as above; not the best evidence.)

A. This was made by Mr. Hogan and myself. Moseley was there in the office. Mr. Hogan done the pen work and I called off from the tally sheets.

Q. Now, did you call from the tally sheets or from the returns handed in by the inspectors of the various precincts in Blaine County?—A. Well, it was the returns the inspectors handed in.

Q. Did anyone besides yourself do any calling or reading?—A. I called off the figures and Mr. Hogan would put them down and he would call them, too, to be sure they were the same.

Q. In whose handwriting are all of the figures in pen on that sheet?—A. Mr. Hogan's.

Q. In whose handwriting are the pencil figures at the right of the pen figures?—A. Mr. Hogan's.

Q. After the figures in pen had been placed upon this sheet, what then was done?—A. We taken this to the adding machine and had it figured up.

Q. And the pencil figures were taken from the adding machine total?—A. Yes, sir.

Q. In whose handwriting are the words "T. W. Moseley" and the word "Blaine" and the figure "29" in the certificate at the bottom of this sheet?—A. It looks like Mr. Moseley's.

Q. Whose signature is this at the bottom?—A. It is Mr. Moseley's.

Q. Did you see him sign that?—A. Yes, sir; he signed it in the office.

Q. At the time this sheet was made out were the cross marks at the top of the sheet on it?—A. Yes, sir.

Q. I will ask you to examine carefully the figures on this sheet and will ask you to state whether or not this sheet and the figures thereon are in the same condition now as they were when placed thereon as you have described before and whether or not there have been any changes or alterations made thereon?—A. Nothing except these cross marks.

(Contestant asks the witness to answer the question yes or no.)

(Comes now the contestee and asks that this sheet be marked "Contestee's Exhibit A" by the notary, and contestee now offers the same in evidence and asks that the notary make a true and correct and full and complete copy thereof, and that the same, certified to by said notary, be attached to the deposition of this witness and that it be made a part thereof.)

(Objected to as incompetent, irrelevant and immaterial, not the best evidence, the laws of the State of Oklahoma requiring county election boards to keep minutes of proceedings and the law further requiring a seal of said county election board, and the purported exhibit having no seal nor any means by which it can be identified as the act of said county election board.)

(Cross-examination. Mr. DORTCH, of Giddings and Giddings, counsel for contestee.)

Q. You are the Republican member of that board, are you not?—A. Yes, sir.

Q. Who is the chairman?—A. Mr. Hogan.

Q. Who is the secretary?—A. Tom Moseley.

Q. That board has a seal, has it not?—A. Yes, sir; I think it has.

Q. Mr. Hogan and Mr. Moseley were indicted by the Federal grand jury, were they not, in connection with this?

(Contestee objects to the question as incompetent, irrelevant, and immaterial, and as not the best evidence.)

A. I think they were.

Q. Don't you know that they are?—A. Well, I heard they were.

(Comes now the contestee and moves to strike the question and the answer for the reason that the same is incompetent, irrelevant, and immaterial.)

Q. Do you know Mr. Homer N. Boardman?—A. Yes, sir.

Q. What official position does he hold, if any, at this time?

(Objected to as improper cross-examination.)

A. He is United States district attorney.

Q. He is a resident of Blaine County, is he not?—A. He has been a resident of Blaine County. I don't know as he is now.

Q. Did you appear as a witness in the prosecution against Moseley and Hogan before the Federal grand jury?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. I was a witness before the grand jury.

Q. Did you have this exhibit with you [referring to exhibit on table]?—A. No, sir.

Q. Where did you get this exhibit?

(Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.)

A. Where did I get it? Well, I brought it down to this office yesterday. I got it from Mr. Boardman.

Q. State if you know where Mr. Boardman got it?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. I don't know where he got it.

Q. When did you see it before yesterday, and where?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. I believe on the 7th day of November, 1912, when we finished making it.

Q. What became of it then?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. I seen it once afterwards in the county clerk's office in Blaine County.

Q. For what reason did you get this from Mr. Boardman yesterday?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. Well, I happened to go to Mr. Boardman's office yesterday, and he sent it down here to be used in taking evidence. He said he had promised it to Mr. Morgan. I didn't even know Mr. Boardman had it until I went to his office.

Q. What did you go to his office for?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and as being improper cross-examination.

A. I had no particular business, just a friendly call.

Q. Did you discuss the case against Hogan and Moseley?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. No, sir; we didn't discuss the case, merely he told me they had a case against them; he didn't discuss the merits of the case.

Q. Mr. Broady, did you ever see a letter sent to the county attorney of, I think, Blaine County, in regard to the validity of the so-called grandfather clause, and signed by Homer N. Boardman, United States district attorney?

Mr. MORGAN. Objected to for the reason that the same is incompetent, irrelevant and immaterial, and improper cross-examination, and for the reason that the same is an attempt on the part of the contestant to prove statements and allegations contained in contestant's notice of contest.

A. I never did.

Q. Did you ever see any copy of this purported letter?

Mr. MORGAN. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination.

A. No, sir.

W. C. BROADY.

Subscribed and sworn to before me this the 19th day of March, A. D. 1913.

[SEAL.]

MARY S. STOTLER,

Notary Public, Oklahoma County, State of Oklahoma.

My commission expires September 1, 1914.

Testimony of BEN W. RILEY:

And thereafter Hon. Ben W. Riley was produced, who, being first sworn to tell the truth, the whole truth and nothing but the truth, deposeth and saith:

Direct examination by Mr. MORGAN:

Q. State your name and residence?—A. Ben W. Riley, El Reno, Okla.

Q. What if any official position do you now and did you hold in the State of Oklahoma during the months of November and December, 1912?—A. Secretary of the State election board.

Q. Do you still hold this position?—A. Yes, sir.

Q. As such officer, have you in your possession the returns made by the county election board of Blaine County, State of Oklahoma, of the result of the general election held in the State of Oklahoma on the 5th day of November,

1912, of the vote cast for the candidates on the State ticket in said Blaine County of said day?—A. I have.

Q. Will you please produce the same?

(Witness produces.)

Q. Is this instrument which you produce the return made by the county election board of Blaine County of the said election?—A. It is.

Q. Did you ever receive, or did the State election board ever receive, any returns of said election for said offices in said county of said election, except the one which you have now produced?—A. This is the only one.

(Comes now the contestee and asks that this instrument be marked "Contestee's Exhibit B," and that a true and correct full and complete copy be attached to the deposition of this witness, and the contestee now offers in evidence said Exhibit B.

To which the contestant objects as incompetent, irrelevant, and immaterial.

The contestee now asks that a true and correct copy of said Exhibit B be attached to the deposition of this witness and that said copy be certified by the notary to be a true and correct copy thereof.)

Q. Handing you this instrument, I will ask you what it is.—A. The certified copy of the official returns from Blaine County.

Q. Of the results of the election held on November 5, 1912, in said county as between candidates on the State ticket?—A. Yes.

(Contestee now asks that this instrument be marked "Contestee's Exhibit C," and now offers the same in evidence.

Objected to as incompetent, irrelevant, and immaterial, not the best evidence, and for the further reason that the original certificate has not been properly identified, so as to show it to be the return of the county election board of Blaine County, the law of the State of Oklahoma requiring that said county election board have a seal and that such returns be attested by the seal.)

Q. Mr. Riley, calling your attention to Exhibits B and C, I will ask you to state what, if any, difference there is between Exhibit C and Exhibit B.—A. Exhibit C does not contain the tabulated vote on State question No. 40 and State question No. 45. It also does not contain the certificate of D. P. Hogan, chairman of the Blaine County election board, and T. W. Moseley, secretary of the Blaine County election board.

Q. By consent of parties Exhibit C not containing or showing the certificate of the chairman and secretary of the county election board of Blaine County, I will ask you to read to the notary the certificate as it appears on Exhibit B.—A. "We, D. P. Hogan as chairman and T. W. Moseley as secretary of the Blaine County election board, hereby certify that the above and foregoing is a true and correct canvas of the vote passed for each political party nominee for the various State offices and the vote for and against State questions Nos. 40 and 45 in the county of Blaine at the general election held Tuesday, the 5th day of November, A. D. 1912, as shown by the official returns of the various precinct election boards in said county.

"We further certify that there was a total of ——— mutilated challenged ballots all of which is now of record in our office. Dated this 6th day of November, A. D. 1912. D. P. Hogan, chairman; T. W. Moseley, secretary."

Q. With the exceptions to which you have just testified, Exhibit C is the same in all particulars as Exhibit B, is it?—A. Yes, sir.

Cross-examination:

Q. Mr. Riley is there any seal of the county election board?—A. The county is supposed to have a seal.

Q. Is there any seal of the Blaine County board on this original certificate?—A. No, sir.

Q. Do you personally know who made out that certificate there?—A. I don't know the signature positive of either men.

Q. I will ask you if in your opinion the name of D. P. Hogan and the name T. W. Moseley are not written in the same handwriting?

Mr. MORGAN. Objected to for the reason the same is incompetent, irrelevant, and immaterial, and for the further reason that the witness has not qualified as a handwriting expert.

A. I should express my doubt as to their being signed by the same man.

Q. That being your answer, I will ask you to examine Exhibit B, and state whether Hogan or Moseley made the other writings in said certificate?—A. I should judge the same man made out the tabulated vote. Whether Hogan made it out or Moseley made it out, I am unable to state.

Q. I will ask you if whether in your opinion the certificate which you have just read into the record which contains in writing the names of D. C. Hogan and T. W. Moseley is not exactly similar to the alleged signature of D. T. Hogan and T. W. Moseley?—A. I should judge they were; that would be my opinion.

Redirect examination:

Q. Mr. Riley, in the matter of the race between John J. Carney and Dick T. Morgan, I will ask you whether or not in the casting up of the vote as between said parties and arriving at the total vote cast in the second congressional district of the State of Oklahoma as between them, you used the figures shown by Exhibit B?—A. Yes, sir.

Q. And in that casting up of the vote did you make any allowance or figure in the vote cast in the following precincts in Blaine County, State of Oklahoma, to wit: Election precinct No. 6, Cedar Valley Township, and election precinct No. 8, Arapaho Township; election precinct No. 9, East Dickson Township; election precinct No. 10, West Lincoln Township; precinct 12, Logan Township, and election precinct No. 13, Flynn Township; election precinct No. 20, Watonga Township; election precinct No. 23, Canton Township; election precinct No. 28, West Dickson Township; election precinct No. 29, Carlton Township; and election precinct No. 30, in East Lincoln Township.

(Objected to as incompetent, irrelevant, and immaterial conclusion; the election certificate itself is the best evidence.)

A. No vote having been returned from those precincts, the board took no consideration of them.

BEN W. RILEY.

Subscribed and sworn to before me this 19th day of March, A. D. 1913.

[SEAL.]

MARY S. STOTLER,

Notary Public, Oklahoma County, State of Oklahoma.

My commission expires September 1, 1914.

And thereupon the further taking of evidence was continued until 1.30 o'clock p. m. on the 19th day of March, 1913.

Testimony of PORTER H. MORGAN:

And thereupon, at 1.30 o'clock p. m., hearing was resumed, and Porter H. Morgan, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposeth and saith:

Direct examination by Mr. DEUPREE:

Q. State your name and residence.—A. Porter H. Morgan, Oklahoma City, Okla.

Q. Are you acquainted with Dick T. Morgan, contestee in the above-entitled cause?—A. Yes, sir.

Q. What, if any, relation are you to him?—A. I am his son.

Q. During the campaign in the fall of 1912, and preceding the general election held in the State of Oklahoma on November 5, 1912, what, if any, position did you hold in the Republican congressional committee of the second congressional district of the State of Oklahoma, and what, if any, part did you take in the campaign relative to the candidacy of Dick T. Morgan for election as Congressman in the second congressional district of the State of Oklahoma?—A. From on or about the 20th day of September I was acting chairman of the Republican congressional committee in said district and acted as campaign manager for Dick T. Morgan, and acted in such capacity until the close of the campaign and until the affairs of the committee relative to the conduct of the campaign were settled up.

Q. Handing you a carbon copy of the contestant's notice of contest, I will ask you to examine Exhibit B, which is attached to said notice of contest, and will ask you if you did, prior to the 5th day of November, 1912, see the original of said letter?—A. No, sir.

Q. Did you see, prior to the 5th day of November, 1912, or on said day, copies thereof which were printed and which have heretofore been introduced in evidence by the contestant?—A. No, sir.

Q. Did you at any time prior to or on the 5th day of November, 1912, see any copies of Exhibit B, attached to contestant's notice of contest?—A. As I remem-

ber it, I saw published in a newspaper about the 1st of November, 1912, a copy of this letter, but further than that I did not see any copies of the same.

Q. Are you acquainted with Homer N. Boardman, United States district attorney for the western district of Oklahoma?—A. Yes, sir.

Q. Did you talk with Mr. Boardman, prior to the 5th day of November, 1912, or on said day, relative to any letter of the sort shown at Exhibit B of contestant's notice of contest?—A. I did not. Mr. Boardman was in Lawton in Federal court most of the time during the three weeks preceding the 5th day of November, 1912, and I did not talk with him prior to the day of the election relative to this letter or any other letter of that sort.

Q. Did you or any other members of the committee have anything to do with the printing or circulation of this or any other letters or circulars similar in character to Exhibit B, contestant's notice of contest?—A. No, sir.

Q. Was the letter, as shown at contestant's Exhibit B to his notice of contest, written with your consent, your knowledge, or with your approbation, or did you enter into any conspiracy with anyone to write, have printed and circulated any such letter?—A. No, sir.

Q. Did you know before the 5th day of November that the letter, a copy of which is attached to contestant's notice of contest and marked "Exhibit B," was being circulated among or sent to the precinct election officers or circulated among them?—A. No, sir; I did not.

Q. Handing you a carbon copy of the contestant's notice of contest, I will ask you to examine Exhibit C thereof, and will ask you if you did, prior to the 5th day of November, 1912, see the original or any copy of said circular?—A. No, sir.

Q. Did you see, prior to the 5th day of November, 1912, or on said day, copies thereof which were printed and which have heretofore been introduced in evidence by the contestant?—A. No, sir.

Q. Did you at any time prior to or on the 5th day of November, 1912, see any copies of Exhibit C, which is attached to contestant's notice of contest?—A. I saw no copy of or original of the circular as shown as Exhibit C until a day or two after the election on the 5th day of November, 1912.

Q. Did you talk with Mr. Homer N. Boardman prior to the 5th day of November, 1912, or on said day relative to a circular of the sort shown as Exhibit C of the contestant's notice of contest?—A. I did not.

Q. Did you or any other member or members of the congressional committee have anything to do with the printing or circulation of this or of any other circular similar in character to this Exhibit C?—A. No, sir.

Q. Was this circular as shown as contestant's Exhibit C to his notice of contest written or composed with your consent, knowledge, or approbation, or did you enter into any plan or conspiracy with anyone to write, compose, have printed, or circulated any such circular?—A. I did not.

Q. Did you know before the 5th day of November, 1912, or on said date that such a circular had been composed, written, printed, or circulated among or sent to the precinct election officers in the second congressional district of the State of Oklahoma?—A. No, sir.

Q. Are you one of the attorneys for the contestee, Dick T. Morgan, in this cause?—A. Yes; the firm of Morgan & Deupree, of which I am a member, are attorneys for the contestee, Dick T. Morgan.

Q. Did you attend the taking of depositions at the office of Giddings & Giddings for and on behalf of the contestant, John J. Carney, during the month of February, 1913?—A. Yes; I was present at the taking of all of the testimony which the contestant took relative to the conduct of the election on the 5th day of November, 1912, in Oklahoma County, State of Oklahoma,

Q. How was this evidence taken?—A. On the first morning of the taking of the evidence the evidence was taken in shorthand by J. M. Harkins. On the reconvening for the purpose of taking testimony after lunch and in the afternoon, I objected, as attorney for the contestee, to the taking of the testimony in shorthand by the stenographer, unless the evidence was reduced to writing in the presence of the witnesses and in the presence of the agents or attorneys of the parties and unless the evidence was duly attested by the witness giving the same at the time. Upon this objection being made by me there were seven pages of testimony taken by Mr. Harkins direct on the machine, these seven pages appearing in the testimony following page 39, these pages being numbered, respectively, 1, 2, 3, 4, 5, 6, 7. At the close of the taking of testimony on page 7 and just preceding the testimony shown on page 40 of said depositions, Mr.

E. J. Giddings, one of the attorneys for the contestant, came in and wanted to know what we were doing. Mr. Dortch, who had been conducting the examination of the witnesses on behalf of contestant, said: "Mr. Morgan objected to taking the testimony in shorthand and we sent and got a machine." And thereupon Mr. Giddings said: "Well, I will stop this foolishness." And thereupon the reporter subscribed a written oath before the notary, Mary S. Hill, and all of the remainder of the evidence respecting the conduct of the election in Oklahoma County on the 5th day of November, 1912, was taken down in shorthand by Mr. Harkins, and none of the remainder of the evidence and none of the testimony of the witnesses thereafter and none of the questions proposed by the parties or their agents was reduced to writing in the presence of the notary public, Mary S. Hill, nor was it reduced to writing in the presence of the parties or their agents, and I was there as agent for and attorney for the contestee, Dick T. Morgan, while all the remainder of this evidence was taken, and none of the evidence whatever was attested by the witnesses who gave the same.

Q. Are you an attorney licensed to practice before all courts in the State of Oklahoma?—A. Yes, sir.

Q. Are you actively engaged in the practice of law in the State of Oklahoma at this time?—A. Yes, sir.

Q. How long have you been so engaged in the practice of law in the State of Oklahoma?—A. About five years.

Q. Are you familiar with the laws of the State of Oklahoma relative to elections and the holding of elections in the State of Oklahoma?—A. Yes, sir.

Q. Are you familiar with the amendment to the constitution of the State of Oklahoma which is commonly known as the "grandfather clause," and a copy of which is attached to the contestant's notice of contest and marked "Exhibit A," and the decisions of the Supreme Court of the State of Oklahoma on said constitutional amendment?—A. I am.

Q. I will ask you if you are familiar with the case of Atwater v. Hassett et al., decided by the Supreme Court of the State of Oklahoma on the 26th day of October, 1910, and reported in 111 Pacific Reporter at page 802, and — Oklahoma Reports, —?—A. Yes, sir.

Q. I will ask you if that decision sets forth the law in this State relative to the questions involved in the case?

(Objected to as incompetent; decision speaks for itself, and any answer of the witness must be a conclusion and his own personal opinion.)

A. Respecting this decision and that part of it relating to the validity of the amendment to the constitution of the State of Oklahoma commonly referred to as the "grandfather clause," this case is the law of the State of Oklahoma. I have investigated the decisions of the Supreme Court of the State of Oklahoma and it has never been overruled by that court and is now and was on the 5th day of November, 1912, the law of the State of Oklahoma. The remainder of the decision upon the other points involved is now and was on the 6th day of November, 1912, the law of the State of Oklahoma and has not been overruled since the decision was handed down.

(The contestee at this time asks that this decision so reported be marked "Contestee's Exhibit D," and that a true and correct, full, and complete copy thereof be attached to and made a part of this deposition.)

Q. Will ask you if you are familiar with the case of Ex parte Show, decided by the criminal court of appeals of the State of Oklahoma the 3d day of December, 1910, and reported in 113 Pacific Reporter at page 1062 and following, — Oklahoma Reports, —?—A. Yes, sir.

Q. I will ask you if you have examined the decisions of the Supreme Court of the State of Oklahoma and of the criminal court of appeals of the State of Oklahoma with a view to ascertaining whether or not this decision in the case of Ex parte Show has been overruled or is still a law of the State of Oklahoma?—A. I have investigated carefully the laws and the decisions of the Supreme Court of the State of Oklahoma and the criminal court of appeals of the State of Oklahoma, and this case Ex parte Show is the law of the State of Oklahoma at this time respecting the propositions laid down therein and respecting the propositions decided by that case, and there has not been up to this time any cases decided by either one of these courts overruling or modifying the decision made in this case.

(The said contestee at this time asks that this decision so reported be marked "Contestee's Exhibit E" and that a true and correct, full, and complete copy of the same be attached hereto and made a part of this deposition, and let the

same, together with Contestee's Exhibit D hereto attached, be introduced in evidence.)

PORTER H. MORGAN.

Subscribed and sworn to before me this 19th day of March, 1913.

[SEAL.]

MARY S. STOTLER,

Notary Public Oklahoma County, State of Oklahoma.

My commission expires September 1, 1914.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I, Mary S. Stotler, a notary public in and for Oklahoma County, State of Oklahoma, do hereby certify that the following tabulated sheet, to which this certificate is attached, is a true, correct, full, entire, and complete copy of Exhibit A, which was introduced in evidence upon the taking of these depositions, and is introduced in evidence by the contestee in the taking of these depositions or evidence before me on the 19th day of March, 1913, in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

MARY S. STOTLER,

Notary Public Oklahoma County, Okla.

My commission expires September 1, 1914.

CONTESTEE'S EXHIBIT A.

Official returns of the general election held Tuesday, Nov. 5, A. D. 1912, State of Oklahoma, county of _____.

Total.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
For corporation commissioner:																																	
J. E. Love, Democrat.....	1,129	60	15	31	28	37	32	89	28	31	45	37	45	13	41	24	45	68	34	19	55	49	15	54	30	34	32	21	27	13	10	64	
P. J. Loewen, Republican.....	1,332	46	38	49	47	38	33	86	42	36	38	27	83	24	60	40	40	66	38	30	79	35	29	104	17	36	15	7	37	51	28	53	
C. E. Hedgpech, Socialist.....	615	24	26	49	8	24	24	44	14	23	49	6	30	8	19	4	28	30	9	7	22	8	12	39	14	6	8	5	4	15	36	20	
For presidential electors, State at large:																																	
Robert A. Baird, Democrat.....	1,064	60	16	30	28	37	31	83	27	31	47	38	45	14	40	25	45	58	34	20	56	44	14	51	29	35	30	20	26	13	9	58	
J. W. Bolen, Democrat.....	1,087	60	15	30	26	37	30	82	27	32	47	38	45	14	40	25	45	58	34	20	52	45	14	51	29	35	30	20	26	13	9	57	
H. H. Brenner, Democrat.....	1,098	60	15	30	27	37	29	81	26	33	47	38	46	14	40	25	45	58	34	20	52	45	13	50	29	35	30	20	26	13	9	58	
Joseph W. Foster, Democrat.....	1,088	59	15	30	27	37	30	82	26	33	47	38	46	14	39	25	45	58	34	19	54	45	14	51	29	35	30	20	26	13	9	58	
W. W. Hastings, Democrat.....	1,089	60	15	30	26	37	31	82	26	32	47	38	46	14	40	25	45	58	34	19	54	45	14	51	29	35	30	20	26	14	9	58	
Sam Massingale, Democrat.....	1,090	60	15	30	26	38	31	82	26	33	47	38	46	14	39	25	45	58	34	19	54	45	14	50	29	34	30	20	26	14	9	58	
S. H. Mayes, Democrat.....	1,089	60	15	30	26	37	30	82	26	32	47	38	46	14	40	25	45	58	34	20	54	46	14	50	29	35	30	20	26	14	9	57	
D. David Rainer, Democrat.....	1,091	60	15	30	26	37	30	82	26	33	48	38	46	14	39	25	45	58	34	20	54	46	14	50	29	35	30	20	26	14	9	57	
J. D. Scott, Democrat.....	1,096	60	15	30	26	37	31	83	26	34	47	38	46	14	40	25	45	58	34	20	55	45	14	50	29	35	30	20	26	14	9	58	
J. C. Thompson, Democrat.....	1,094	60	15	30	27	37	29	83	26	33	47	38	46	14	42	25	46	58	34	19	54	45	14	50	29	35	30	20	26	14	9	57	
Geo. M. Flick, Republican.....	1,412	48	37	49	48	40	35	92	44	42	40	34	88	21	58	19	40	60	39	29	85	40	29	106	18	36	20	7	38	51	32	64	
Marshall W. Hinch, Republican.....	1,395	48	37	49	49	40	36	93	43	40	34	88	21	57	17	41	77	39	29	84	40	29	106	18	36	20	7	38	50	31	59		
M. P. Howser, Republican.....	1,390	49	37	49	49	40	36	93	43	40	39	34	88	21	57	17	41	77	39	29	84	40	29	106	18	36	20	7	38	50	30	59	
H. L. Hix, Republican.....	1,417	49	37	49	48	40	36	91	42	41	39	34	87	20	57	18	40	76	39	29	84	40	29	106	18	36	20	7	38	50	31	59	
Lindsey L. Long, Republican.....	1,395	49	37	49	50	40	36	92	43	42	39	34	88	21	58	18	40	77	39	30	82	39	29	106	18	36	20	7	38	50	30	59	
W. L. McWilliams, Republican.....	1,402	49	37	49	49	40	36	92	43	42	39	34	88	21	58	18	40	77	39	30	82	39	29	106	18	36	20	7	38	50	30	59	
Ret Millard, Republican.....	1,401	49	37	49	49	40	37	92	42	41	39	34	88	21	57	17	40	76	39	30	83	39	29	107	18	36	20	7	38	50	30	58	
Geo. E. Nickel, Republican.....	1,394	49	37	49	48	40	36	93	42	41	39	34	87	21	58	18	40	76	39	30	83	39	29	107	18	36	20	7	38	50	30	58	
Joseph G. Ralls, Republican.....	1,390	49	38	49	48	40	37	92	42	40	39	35	87	21	56	18	40	77	39	30	82	39	29	106	18	36	20	7	38	50	30	58	
W. A. Williams, Republican.....	1,388	49	38	49	49	40	38	91	43	40	39	33	87	21	56	18	40	76	39	30	82	39	29	106	18	36	20	7	38	50	30	58	
F. B. Barnes, Socialist.....	615	26	25	48	6	22	26	46	14	22	48	7	30	9	19	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	37	21	
C. B. Boylan, Socialist.....	604	25	48	6	22	26	44	14	22	48	7	30	8	19	4	28	31	10	7	22	8	10	39	13	4	9	4	4	13	38	20		
A. R. Bradshaw, Socialist.....	609	25	48	6	22	26	44	14	22	47	7	29	8	19	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	38	21		
W. H. Davis, Socialist.....	610	25	48	6	22	26	44	14	22	47	7	29	8	20	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	38	21		
R. E. Dooley, Socialist.....	608	25	48	6	22	26	44	14	22	47	8	29	8	19	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	37	20		
Allen Fields, Socialist.....	609	25	48	6	22	26	44	14	22	48	7	29	8	20	4	28	32	10	7	21	8	10	39	14	4	9	4	4	13	38	20		
Lewis B. Irvin, Socialist.....	607	25	48	6	22	26	44	14	22	48	7	29	8	20	4	28	32	10	7	21	8	10	39	14	4	9	4	4	13	37	20		
I. N. Johnson, Socialist.....	611	25	48	6	22	26	44	14	22	47	7	29	9	19	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	38	20		
A. W. Renshaw, Socialist.....	609	25	48	8	22	26	44	14	22	47	7	29	9	19	4	28	32	10	7	22	8	10	39	14	4	9	4	4	13	37	20		
Thos. W. Woodrow, Socialist.....	597	25	48	7	22	26	45	14	22	47	7	29	8	21	4	27	32	10	7	22	8	10	39	14	4	9	4	4	13	39	20		
M. Simpson Allen, Prohibitionist.....	43	...	2	1	2	1	1	2	2	...	6	1	3	...	2	1	1	1	1	1	1	2	...	1	9	1	...	3	1	
J. E. Brewer, Prohibitionist.....	43	...	2	1	2	1	1	2	2	...	6	1	3	...	2	1	1	1	1	1	1	2	...	1	9	1	...	3	1	
Chas. Brown, Prohibitionist.....	41	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	
S. H. Brown, Prohibitionist.....	42	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	
Taylor H. Ebersole, Prohibitionist.....	41	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	
G. M. Haddock, Prohibitionist.....	41	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	
Chas. O. Jennings, Prohibitionist.....	42	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	
J. H. Medaris, Prohibitionist.....	42	...	2	1	2	1	1	2	2	...	6	1	3	...	1	1	9	1	...	3	1	

Official returns of the general election held Tuesday, Nov. 5, A. D. 1912, State of Oklahoma, county of ————Continued.

	Total.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
For presidential electors, State at large—Continued.																																	
G. E. Rouch, Prohibitionist.....	42																																
H. E. Strickler, Prohibitionist.....	42																																
For United States Senator:																																	
Robt. L. Owen, Democrat.....	1,196	66	17	32	28	38	34	93	30	36	49	43	48	15	49	27	45	68	36	19	57	55	16	55	29	36	34	23	26	13	11	68	
J. T. Dickerson, Republican.....	1,289	44	36	49	47	34	37	84	44	35	37	25	82	23	51	16	39	71	37	19	81	32	25	102	17	35	14	7	38	48	26	54	
John G. Wills, Socialist.....	610	24	25	48	9	21	24	45	14	22	48	6	29	8	22	4	26	30	10	7	24	8	11	39	15	5	8	4	13	37	20		
For Congressman at large:																																	
Wm. H. Murray, Democrat.....	1,142	64	15	30	28	35	35	87	28	34	47	41	47	14	47	26	43	65	34	19	54	49	14	51	28	36	32	23	26	15	12	62	
Joe B. Thompson, Democrat.....	1,110	60	15	31	28	34	33	86	27	34	48	39	46	14	45	25	43	62	34	19	51	49	15	49	30	34	31	21	26	13	12	60	
Claude Weaver, Democrat.....	1,122	62	16	32	29	34	33	84	27	33	48	39	46	14	45	26	44	62	34	19	54	49	15	48	28	34	30	22	26	13	12	61	
Alvin D. Allen, Republican.....	1,345	45	38	45	41	34	37	48	36	39	30	82	23	53	17	41	73	37	30	79	37	29	105	17	38	16	7	38	49	27	58		
Jas. L. Brown, Republican.....	1,357	47	38	45	47	41	33	88	43	36	37	30	81	23	53	17	43	74	37	29	79	37	23	105	17	38	16	7	38	49	27	58	
Emory D. Brownlee, Republican.....	1,355	48	37	46	47	41	35	89	43	37	42	29	80	22	54	16	42	75	37	31	79	37	24	106	18	39	16	7	38	50	29	61	
Oscar Ameringer, Socialist.....	615	25	25	48	7	23	24	43	14	23	48	6	30	10	21	4	28	31	9	7	23	8	11	39	15	4	8	6	4	14	37	20	
J. T. Cumble, Socialist.....	616	24	25	48	8	23	25	43	15	23	49	6	31	8	20	4	27	31	9	7	24	8	11	39	14	5	8	6	4	14	37	20	
J. Luther Langston, Socialist.....	114	24	25	48	7	22	24	43	14	23	49	6	31	8	21	4	27	31	9	7	25	8	11	39	14	5	8	6	4	14	37	20	
For Justice Supreme Court—First district:																																	
John B. Turner, Democrat.....	1,119	65	15	30	29	35	31	85	29	34	47	42	47	14	46	26	45	64	34	19	53	50	16	53	29	36	32	20	26	13	11	63	
Charles Alston Cook, Republican.....	1,358	47	36	50	47	40	38	91	44	34	37	29	81	22	53	17	42	71	36	30	79	38	27	107	18	40	16	10	38	53	28	59	
For Judge Criminal Court of Appeals—Southern district:																																	
Henry M. Furman, Democrat.....	1,121	62	15	29	28	35	29	84	28	34	47	41	45	14	45	25	44	64	34	19	53	51	14	53	27	38	32	20	26	14	11	63	
George T. Kalls, Republican.....	1,309	48	36	51	47	40	25	92	45	35	37	28	82	23	53	18	41	72	38	30	75	36	27	100	18	39	16	8	38	49	28	55	
E. S. Hurt, Socialist.....	611	23	26	48	7	23	23	42	15	24	50	6	29	8	21	4	28	32	9	7	22	8	10	39	15	5	8	6	4	14	35	20	
For Representative in Congress—Second district:																																	
J. J. Carney.....	1,171	62	16	28	28	44	30	93	27	39	45	48	52	13	41	25	49	70	38	19	48	50	18	55	30	40	31	20	25	13	10	64	
Dick T. Morgan.....	1,351	49	36	54	47	24	39	88	47	39	39	26	80	22	63	19	40	68	35	31	80	34	23	104	18	30	18	11	39	51	30	58	
P. D. McKensey.....	599	24	26	48	7	21	21	41	13	23	49	6	29	8	20	4	25	31	10	7	22	8	11	37	14	4	8	4	14	36	20		
For State senator—Sixteenth district:																																	
M. B. Carley.....	1,083	53	15	32	25	35	28	78	29	32	43	35	46	12	39	25	42	59	35	19	52	46	22	51	29	31	32	18	26	12	11	51	
E. F. Warner.....	1,438	48	34	47	48	40	36	102	48	38	43	40	82	67	48	26	62	18	47	38	30	99	40	18	105	19	42	18	13	38	52	27	71
S. H. Hendrickson.....	628	39	27	48	9	23	25	42	13	24	49	6	30	7	20	4	27	31	9	7	22	9	11	40	14	5	8	4	14	36	21		
For representative:																																	
W. R. Kelly.....	1,037	49	15	32	24	38	22	74	24	29	26	34	50	15	36	24	38	57	32	20	46	42	25	65	30	33	35	19	25	12	54		
Geo. Jamison.....	1,306	55	37	47	49	36	39	88	47	33	39	37	75	22	64	19	43	78	40	30	78	39	21	95	18	38	12	12	36	52	25	62	
John T. Long.....	715	30	26	48	11	24	32	58	15	34	71	7	36	9	22	4	30	32	9	7	35	10	12	40	15	6	7	5	6	13	39	32	
State question No. 40:																																	
Shall the bill be adopted—																																	
Yes.....																																	
No.....																																	
State question No. 45:																																	
Shall the bill be adopted—																																	
Yes.....																																	
No.....																																	
1,200	26	34	49	20	16	15	99	26	54	52	42	107	13	40	24	48	64	37	22	41	38	27	65	18	44	16	13	12	54	32	42		
911	71	20	29	38	59	50	60	16	16	39	19	17	9	42	15	28	65	16	19	29	25	12	30	20	25	22	25	22	16	22	35		

We, ———, as chairman, and T. W. Moseley, as secretary, of the Blaine County election board, hereby certify that the above and foregoing is a true and correct canvass of the vote cast for each political party nominee for the various State offices and the vote for and against State questions Nos. 40 and 45 in the county of Blaine at the general election held Tuesday, the 5th day of November, A. D. 1912, as shown by the official returns of the various precinct election boards in said county. We further certify that there was a total of 29 mutilated challenged ballots, all of which is now of record in our office.

————, *Chairman.*
T. W. MOSELEY, *Secretary.*

This 5th day of November, A. D. 1912.

STATE OF OKLAHOMA, *Oklahoma County, ss:*

I, Mary S. Stotler, notary public in and for Oklahoma County, State of Oklahoma, do hereby certify that the tabulated statement to which this certificate is attached is a full, true, entire, complete, and correct copy of Exhibit B introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant, and Dick T. Morgan is contestee, except that the said tabulated statement does not contain the tabulated vote on State question No. 40 and State question No. 45, and does not contain or show the certificate of D. P. Hogan, chairman of the Blaine County election board, and T. W. Moseley, secretary of the Blaine County election board, which said certificate reads, as is testified to by Ben W. Riley, on page 9 of said depositions; and I further certify that the tabulated statement to which this certificate is attached is a true, correct, complete, and entire copy of Exhibit C introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

MARY S. STOTLER,
Notary Public of Oklahoma County, State of Oklahoma.

My commission expires September 1, 1914.

CONTESTEE'S EXHIBIT B.

Abstract of the vote cast for Blaine County, by precincts, at the general election held Tuesday, Nov. 5, A. D. 1912.

	1. Cimarron.	2. Homestead.	3. Cantonment.	4. Seay.	5. Wells.	6. Cedar Valley.	7. Watonga town.	8. Arapahoe.	9. East Dixon.	10. West Lincoln.	11. Canadian.	12. Logan.	13. Flynn.	14. Lawton.	15. Long (south).	16. Liberty.	17. Cimarron.	18. Alfalfa.	19. North Long.	20. Watonga Township.	21. Geary, 1st ward.	22. River Township.	23. Canton.	24. Homestead (south).	25. Geary, 2d ward.	26. Geary, 3d ward.	27. Geary, 4th ward.	28. West Dixon.	29. Carlton.	30. East Lincoln.	31. Watonga town.	Total.
For corporation commissioner:																																
J. E. Love, Democrat.....	60	15	31	28	37	89	89	86	86	86	37	37	37	41	24	45	68	34	19	...	49	15	...	30	34	32	21	...	...	...	64	783
P. J. Loewen, Republican.....	46	38	49	47	38	86	86	86	86	86	27	27	27	60	20	40	66	38	30	...	35	29	...	17	36	15	7	...	...	...	53	777
C. E. Hedgpeth, Socialist.....	24	26	49	8	24	44	44	44	44	44	6	6	6	19	4	28	30	9	7	...	8	12	...	14	6	8	5	...	...	...	20	351
For Presidential electors, State at large:																																
Robert A. Baird, Democrat.....	60	16	30	28	37	83	83	83	83	83	38	38	38	40	25	45	58	34	20	...	44	14	...	29	35	30	20	...	...	...	58	744
J. W. Bolen, Democrat.....	60	15	30	26	37	82	82	82	82	82	38	38	38	40	25	45	58	34	20	...	45	14	...	29	35	30	20	...	...	...	58	741
H. H. Brenner, Democrat.....	60	15	30	27	37	81	81	81	81	81	38	38	38	39	25	45	58	34	20	...	45	13	...	29	35	30	20	...	...	...	57	739
Joseph W. Foster, Democrat.....	59	15	30	27	37	82	82	82	82	82	38	38	38	39	25	45	58	34	20	...	45	14	...	29	35	30	20	...	...	...	58	740
W. W. Hastings, Democrat.....	60	15	30	26	37	82	82	82	82	82	38	38	38	40	24	45	58	34	19	...	45	14	...	29	34	30	20	...	...	...	58	739
Sam Massingale, Democrat.....	60	15	30	26	38	82	82	82	82	82	38	38	38	39	25	45	58	34	19	...	45	14	...	29	35	30	20	...	...	...	58	739
S. H. Mayes, Democrat.....	60	15	30	26	37	82	82	82	82	82	38	38	38	40	25	45	58	34	20	...	46	14	...	29	35	30	20	...	...	...	57	741
David Ratner, Democrat.....	60	15	30	26	37	83	83	83	83	83	38	38	38	39	25	45	58	34	20	...	45	14	...	29	35	30	20	...	...	...	58	742
J. D. Scott, Democrat.....	60	15	30	26	37	83	83	83	83	83	38	38	38	40	25	46	60	34	19	...	45	14	...	30	34	30	20	...	...	...	57	746
J. C. Thompson, Democrat.....	60	15	30	27	37	83	83	83	83	83	35	35	35	58	19	40	78	39	29	...	39	30	...	18	40	21	7	...	...	...	64	831
Geo. M. Flick, Republican.....	48	37	49	48	40	92	92	92	92	92	34	34	34	56	18	40	77	39	29	...	40	29	...	18	36	20	7	...	...	...	59	816
Marshall W. Hinch, Republican.....	49	37	49	49	40	93	93	93	93	93	34	34	34	57	17	41	76	39	29	...	40	29	...	18	36	20	7	...	...	...	59	820
M. P. Howser, Republican.....	49	37	49	48	40	91	91	91	91	91	34	34	34	57	18	40	76	39	29	...	40	29	...	18	36	20	7	...	...	...	59	817
H. L. Hix, Republican.....	49	37	49	50	40	92	92	92	92	92	34	34	34	58	18	40	77	39	30	...	39	29	...	18	36	20	7	...	...	...	58	819
Lindsey L. Long, Republican.....	49	38	49	48	49	92	92	92	92	92	34	34	34	57	17	40	77	39	30	...	39	29	...	18	36	20	7	...	...	...	59	819
W. L. McWilliams, Republican.....	49	37	49	49	40	92	92	92	92	92	34	34	34	58	18	40	76	39	29	...	39	29	...	18	35	20	7	...	...	...	60	803
Ret Millard, Republican.....	49	37	49	49	40	93	93	93	93	93	34	34	34	58	18	40	77	39	30	...	39	29	...	18	35	20	7	...	...	...	58	805
Geo. E. Nickel, Republican.....	49	37	49	48	40	92	92	92	92	92	35	35	35	56	18	40	77	39	30	...	39	29	...	18	36	20	7	...	...	...	58	803
Joseph G. Ralls, Republican.....	49	38	49	48	40	91	91	91	91	91	33	33	33	56	18	40	76	39	30	...	39	28	...	18	36	20	7	...	...	...	57	799
W. A. Williams, Republican.....	49	38	49	49	40	92	92	92	92	92	33	33	33	56	18	40	76	39	30	...	39	28	...	18	36	20	7	...	...	...	57	799
E. B. Barnes, Socialist.....	26	25	48	6	22	46	46	46	46	46	7	7	7	19	4	28	32	10	7	...	8	10	...	13	4	9	4	...	...	...	21	350
C. B. Boylan, Socialist.....	25	25	48	7	22	46	46	46	46	46	7	7	7	19	4	28	31	10	7	...	8	10	...	14	4	9	4	...	...	...	20	345
A. R. Bradshaw, Socialist.....	25	25	48	6	22	44	44	44	44	44	7	7	7	19	4	28	32	10	7	...	8	10	...	14	4	9	4	...	...	...	21	347
W. H. Davis, Socialist.....	25	25	48	6	22	44	44	44	44	44	7	7	7	20	4	28	32	10	7	...	8	10	...	14	4	9	4	...	...	...	21	348
R. E. Dooley, Socialist.....	25	25	48	6	22	44	44	44	44	44	8	8	8	19	4	29	32	10	7	...	8	10	...	14	4	9	4	...	...	...	20	348
Allen Fields, Socialist.....	25	25	48	7	22	44	44	44	44	44	7	7	7	20	4	28	32	10	7	...	8	10	...	14	4	9	4	...	...	...	20	348
Lewis B. Irvin, Socialist.....	25	25	48	6	22	44	44	44	44	44	7	7	7	20	4	28	32	10	7	...	8	10	...	14	4	9	4	...	...	...	20	347

I. N. Johnson, Socialist.....	25	25	48	8	22	44	7	19	4	28	32	10	7	8	10	14	4	9	4	20	348
A. W. Renshaw, Socialist.....	25	25	48	8	22	44	7	19	4	28	32	10	7	8	10	14	4	9	4	20	348
Thos. W. Woodrow, Socialist.....	25	25	48	8	22	45	7	21	4	27	32	10	7	8	10	14	4	9	4	20	349
M. Simpson Allen, Prohibitionist.....	2	1	2	2	1	2	45	3	3	2	1	1	1	2	2	25	9	9	1	24	
J. E. Brewer, Prohibitionist.....	2	1	2	2	1	2	1	3	3	2	1	1	1	2	2	25	9	9	1	25	
Chas. Brown, Prohibitionist.....	2	1	2	2	1	2	1	3	3	2	1	1	1	2	2	25	9	9	1	23	
S. H. Brown, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	23	
Taylor H. Ebersole, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	23	
G. M. Haddock, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	24	
Chas. O. Jennings, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	24	
J. H. Medaris, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	24	
G. E. Rouch, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	24	
H. E. Strickler, Prohibitionist.....	2	1	2	2	1	2	1	3	3	1	1	1	1	2	2	25	9	9	1	24	
For United States Senator:																					
Robt. L. Owen, Democrat.....	66	17	32	38		93	43	49	27	45	68	36	19	55	16	29	36	34	23	68	822
Robt. L. Owen, Democrat.....	44	36	49	34	84	84	23	51	16	39	71	37	19	32	15	17	35	14	7	54	736
J. T. Dickerson, Republican.....	24	25	48	9	21	45	6	22	4	26	30	10	7	8	11	15	5	8	4	20	348
John G. Wills, Socialist.....																					
For Congressmen at large:																					
Wm. H. Murray, Democrat.....	64	15	30	28	35	87	41	47	26	43	65	34	19	49	14	29	36	32	23	62	779
Joe B. Thompsons, Democrat.....	60	15	31	28	34	86	39	45	25	43	62	34	19	49	15	30	34	31	21	60	761
Claude Weaver, Democrat.....	62	16	32	29	34	84	39	45	26	44	62	34	19	49	18	28	34	30	22	61	768
Alvin D. Allen, Republican.....	45	38	49	48	41	87	30	53	17	41	73	37	30	37	29	17	38	16	7	57	790
Jas. L. Brown, Republican.....	47	38	48	47	41	88	30	53	17	43	74	37	29	37	23	17	38	17	7	58	789
Emory D. Brownlee, Republican.....	48	37	46	47	41	89	29	54	16	42	75	37	31	37	24	18	39	16	7	61	794
Oscar Ameringer, Republican.....	25	25	48	7	23	43	6	21	4	28	31	9	7	8	11	15	4	8	6	20	349
J. T. Cumbie, Socialist.....	24	25	48	8	23	43	6	20	4	27	31	9	7	8	11	14	5	8	6	20	347
J. Luther Langston, Socialist.....	24	25	48	7	22	43	6	21	4	27	31	9	7	8	11	14	5	8	6	20	347
For Justice Supreme Court, first district:																					
John B. Turner, Democrat.....	65	15	30	29	35	85	42	46	26	45	64	34	19	50	16	27	36	32	20	63	781
Charles Alston Cook, Republican.....	47	36	50	47	40	91	29	53	17	42	71	36	30	38	27	18	40	16	10	59	797
For Judge Criminal Court of Appeals, southern district:																					
Henry M. Furnan, Democrat.....	62	15	29	28	35	84	41	45	25	44	64	34	19	51	14	27	35	32	20	63	777
George T. Ralls, Republican.....	48	36	51	47	40	92	28	53	18	41	72	38	30	36	27	18	39	16	8	55	793
E. S. Hurt, Socialist.....	23	26	48	7	23	42	6	21	4	28	32	9	7	8	10	15	5	8	6	20	348
For Representative in Congress, second district:																					
J. J. Carney, Democrat.....	62	16	28	28	44	93	48	41	25	49	70	38	19	50	18	30	40	31	20	64	814
Dick T. Morgan, Republican.....	49	36	54	47	24	88	26	53	19	40	68	35	31	34	23	18	30	18	11	58	772
P. D. McKinsey, Socialist.....	24	26	48	7	21	41	6	20	4	25	31	10	7	8	11	14	4	8	4	20	339
For State Senator, sixth district:																					
M. B. Carley, Democrat.....	53	15	32	25	35	78	35	39	25	42	59	35	19	46	22	29	31	32	18	51	721
E. J. Warner, Republican.....	48	34	47	48	40	102	40	62	18	44	77	38	30	40	11	19	42	18	13	71	849
S. H. Hendrickson, Socialist.....	39	27	48	9	23	47	6	20	4	27	31	9	7	9	11	14	5	8	4	21	369
For Representative:																					
W. R. Kelly, Democrat.....	49	15	32	24	38	74	34	36	24	38	57	32	20	42	25	30	33	35	19	54	711
Geo. Jamison, Republican.....	55	37	47	49	36	88	37	64	19	43	78	40	30	39	21	18	38	12	12	62	825
John T. Long, Socialist.....	30	26	48	11	24	58	7	22	4	30	32	9	7	10	12	15	6	7	5	32	895

I, Ben W. Riley, secretary of the State election board of the State of Oklahoma, do hereby certify that the above is a true and correct vote cast for State officers in Blaine County, in the State of Oklahoma, at the general election held in said State of Oklahoma on the 5th day of November, A. D. 1912, as shown by the official returns of the county election board of Blaine County, as now appears of record in the office of the State Election Board of the State of Oklahoma.

In testimony whereof I hereunto set my hand and affix the official seal of the State election board this the 19th day of March, A. D. 1913.

[SEAL.]

BEN W. RILEY,
Secretary State Election Board.

CONTESTEE'S EXHIBIT D.

ATWATER V. HASSETT ET AL.

Supreme Court of Oklahoma, October 26, 1910.

[Syllabus by the court.]

1. STATUTES (sec. 110½)—CONSTITUTIONAL LAW (secs. 6, 9)—ELECTIONS (secs. 7, 10½, 12)—AMENDMENTS TO CONSTITUTION—INITIATIVE—TITLES OF STATUTES.

(a) An act entitled "An act carrying into effect provisions relating to the initiative and referendum; prescribing the method of procedure for submitting and voting for proposed amendments to the constitution and other propositions, and prescribing the method of appeal from petitions filed or from the ballot title; repealing sections 6, 7, and 16 of article 1, chapter 44, of the Session Laws of Oklahoma, 1907-S," is not repugnant to section 57 of article 5 of the constitution.

(b) Said act is neither repugnant to sections 2 and 3 of article 5 of the constitution, nor sections 1 and 3 of article 24 of the constitution of this State.

(c) Section 4a of article 3 of the constitution, an amendment adopted at the election on the first Tuesday in August, A. D. 1910, is not invalid for the reason that it was submitted at the primary election held "throughout the State" at said time, and not at the general election to be held "throughout the State" for the election of State officers on the second Tuesday of said year.

(d) Said section 4a of article 3, supra, is neither repugnant to sections 1 and 7 of article 3 nor section 6, article 1, or any other provision of the constitution.

2. CONSTITUTIONAL LAW (secs. 206, 274, 215)—ELECTIONS (secs. 12, 11)—EQUAL PROTECTION OF LAWS—RIGHTS AND IMMUNITIES—REPUBLICAN FORM OF GOVERNMENT.

(a) Said section 4a, article 3, constitution, supra, is neither in violation of the fourteenth nor the fifteenth amendment to the Federal Constitution.

(b) Nor is said provision invalid on account of the following provision in section 3 of the enabling act: " * * * The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence."

[Additional syllabus by editorial staff.]

3. CONSTITUTIONAL LAW (sec. 70)—ENCROACHMENT OF JUDICIARY.

Constitution, article 5, section 58, expressly providing that the legislature shall enact laws "for carrying into effect provisions relating to the initiative and referendum," courts will not revise such discretionary powers.

Kane, J., dissenting in part.

Error from district court, Oklahoma County; John J. Carney, judge.

Action between Joseph Atwater and W. T. Hassett and others. From the judgment Atwater brings error. Affirmed.

Wiley Jones for plaintiff in error. C. B. Stuart and W. A. Ledbetter for defendants in error. Burford & Burford and Devereux and Hildreth amici curiae.

WILLIAMS, J. The following questions are raised: (1) Is section 4a of article 3 of the constitution as adopted at the election on the first Tuesday in August, A. D. 1910, invalid for the reason that said amendment was submitted

at the primary election held "throughout the State" at said time, and not at the general election "throughout the State," for the election of State officers on the second Tuesday of November, in said year, and was not submitted under any valid procedure for the amendment of said constitution? (2) The said provision in violation of the fourteenth or fifteenth amendments of the Federal Constitution, or section 3 of the enabling act?

1. Said amendment was submitted by virtue of the act of March 17, 1910 (Sess. Laws, 1910, pp. 124, 125). This court, in re State question No. 10 (110 Pac., 647) held that said act became effective on the date of its passage and approval by the governor. It is urged, however, that the title of said act is violative of section 57 of article 5 of the constitution, and for that reason said act falls. The title of said act relates primarily to one subject only, namely, the "carrying into effect provisions relating to the initiative and referendum" (Const., art. 5, sec. 58). By prescribing the method of procedure for submitting and voting for amendments to the constitution and other propositions under such initiative and referendum powers and a method of appeal from the action of the secretary of state relative to the valid title, etc., and repealing sections 6, 7, 16, of article 1, chapter 44, Session Laws, 1907-8, which were a part of the act of that session to "carry into effect the initiative and referendum provisions." This title appears not to be repugnant to article 5, section 57, of the constitution. (State Ex Rel. v. Hooker, County Judge, 22 Okla., 712, 98 Pac., 964; Rea, County Clerk v. Board of County Commrs. (recently decided but not yet officially reported), 112 Pac., —, 1.) It is further urged that said amendment is invalid for the reason that it was submitted by virtue of sections 1, 2, and 4, article 2, of said act (Sess. Laws, 1909, p. 124), which provides:

"SEC. 1. If the legislature should desire to ascertain the sentiment of the people upon any proposed amendment to the Constitution, it may, by concurrent resolution, suggest to the citizens of the State such proposition as an amendment to the constitution. Such resolution should set forth the proposed amendment in full and should the citizens of the State proceed to initiate such proposition within one year thereafter, then it shall be the duty of the secretary of state when the required petitions have been filed in his office to cause an attached copy thereof to be filed with the chairman of the State election board, together with a certificate of the fact that the proposition was originated by concurrent resolution of the legislature setting forth such resolution.

"SEC. 2. All propositions first suggested to the people by the legislature, as provided by section 1 of this article, shall be printed by such election board, and they shall have the supervision of the printing of the ballots for such proposed amendment, and such proposition shall be printed either on a separate and independent ballot or upon the ballot upon which the names of candidates appear, should such election occur upon the day when candidates are being voted for: *Provided, however,* That the State election board shall not be empowered to change the form of any ballot as prescribed by the legislature. Should such title be printed upon ballots containing the names of candidates such board shall cause such proposition to appear immediately following the names of such candidates. If separate ballots are used at such election for county candidates, only local propositions can be printed thereon. All State-wide or district propositions shall be printed only upon the State ballots. Such election board shall cause the said title of each proposition to be printed, followed by the words "For the amendment," which words shall be in a separate paragraph and at least one-fourth of an inch below such title. Said words shall have no distinguishing marks about them."

"SEC. 4. Electors shall vote upon all propositions submitted under the provisions of this act, and which were first suggested by concurrent resolution of the legislature, in the following manner: Should the elector desire to vote for the proposed amendment he shall leave the words 'For the amendment,' intact without erasing same. But should he desire to vote against such proposition he shall strike out the words, 'For the amendment,' with a pencil mark. When such words are so erased after any proposition, the ballot shall be recorded as having been cast against the same, and whenever they are not so erased, such ballot shall be recorded as having been voted for such proposition."

Section 3 of article 5 of the constitution provides: "All elections on measures referred to the people of the State shall be had at the next election held throughout the State, except when the legislature or the governor shall order a special election for the express purpose of making such reference."

Section 1, article 3, page 270, Session Laws, 1909, provides: "Whenever any measure shall be initiated by the people in the manner provided by law, or

whenever the referendum shall be demanded against any measure passed by the legislature, the governor shall have the power, in his discretion, to call a special election to vote upon such question."

Section 1 of article 24 of the constitution provides: "Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection at the next regular general election, except when the legislature, by two-thirds vote of each house, shall order a special election for that purpose. If a majority of all the electors voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this constitution. If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately."

Section 3 of article 24 provides: "This article shall not impair this right of the people to amend this constitution by a vote upon an initiative petition therefor."

This amendment not having been submitted by virtue of section 1, article 24, supra, the same has no application to this case. Said amendment was submitted on an initiative petition. Under section 3, article 5, constitution, said amendment was required to be submitted "at the next election held throughout the State." Further, the governor issued his proclamation calling an election for said date at which said proposed amendment was to be submitted.

It has been time and again held by this court that the initiative and referendum provisions as contained in the constitution of this State were not self-explanatory. (Ex parte Wagner, 21 Okla., 33, 95 Pac., 435; Norris et al. v. Cross, 25 Okla., 287, 105 Pac., 1000; Threadgill et al. v. Cross, 109 Pac., 558; In re Initiative State Question No. 10, 110 Pac., 647.) Was said amendment submitted in a manner contrary to some provision of our constitution? It was provided that there should be printed upon the ballot, "For the amendment," and those desiring to vote in favor of the amendment should vote the ballot in that form, and those desiring to vote against it should strike out the words, "For the amendment," with a pencil mark. Section 7 of article 3 of the constitution provides that elections in this State "shall be free and equal." A similar provision was contained in the constitution of Pennsylvania (Const., 1838, art. 9, sec. 5; Const., 1873, art. 1, sec. 5; Oregon, Const., 1857, art. 2, sec. 1; and Illinois, Const., 1870, art. 2, sec. 18.)

In *Patterson v. Barlow* (60 Pa., 54) it is said: "The constitution appoints the time of the general election, prescribes the qualifications of voters, and enjoins the ballot; and for the rest the law must provide. * * * Then that election is free and equal where all the qualified electors of the precinct are carefully distinguished from the unqualified, and are protected in the right to deposit their ballots in safety, and unprejudiced by fraud." At nisi prius Judge Sharswood (60 Pa., at page 63) said: "I propose to consider what was meant both by the freedom and the equality of elections, and then apply the declaration of the constitution as thus interpreted to the act of assembly, the validity of which is now brought in question. By declaring that elections shall be equal, I think that it was evidently intended to provide that the regulations for conducting them should be uniform, and that no distinctions, especially as to the evidence required to prove the elective franchise, should ever be made between one class of citizens and another—between those residing in one place and those residing in another. If equality of elections does not mean this, it means nothing." This identical language is quoted with approval in *Grinnell v. Hoffman* (116 Ill., 587; 5 N. E., 596; 8 N. E., 788; 56 Am. Rep., 793).

In *De Walt v. Bartley* (146 Pa. 529, 24 Atl. 185, 15 L. R. A. 771, 28 A. M. St. Rep. 814), Chief Justice Paxson, in delivering the unanimous opinion of the court, said: "The act provides for a secret ballot. That is manifestly its main purpose, and it is in entire harmony with article 1, section 5, constitution, which declares that 'elections shall be free and equal'. This means that every citizen shall have an equal right to cast a free ballot. This is the letter of the constitution, and it is a right which no legislature can interfere with. The spirit of the constitution requires that each voter shall be permitted to cast a free and unintimidated ballot. This the act of 1891 was intended to secure. An election, to be free, must be without coercion of every description. An election may be held in strict accordance with every legal requirement as to form, yet if, in point of fact, the voter casts the ballot as the result of intimidation;

if he is deterred from the exercise of his free will by means of any influence whatever, although there be neither violence nor physical coercion, it is not a free and equal election within the spirit of the constitution. The framers of the act in question have evidently reached the conclusion that the only adequate guaranty of free and equal elections, within the letter and spirit of the constitution, is absolute secrecy. They therefore have provided a secret ballot."

In *State ex rel v. Richardson* (48 Or. 309, 85 Pac. 225, 8 L. R. A. (N. S.) 362), it is said: "It is maintained that the act under consideration is violative of section 1, article 2, of the organic law of the State, which is as follows: 'All elections shall be free and equal.' No qualified elector was prevented by any means whatever, so far as disclosed by the transcript, from freely voting to adopt or reject the local-option law, or deprived of having his vote counted as cast, and, if he exercised the right of suffrage on this particular occasion, his opportunity was equal to that of all other persons voting, and hence the act does not contravene the clause of the constitution invoked to defeat it. (10 Am. & Eng. Enc. Law (2d ed.) 583)".

This identical question seems to have been passed upon by the Supreme Court of Alabama, which had substantially the same constitutional provision as existed in Oklahoma. Section 2 of article 1 of the Alabama constitution of 1875 provides: "That all persons resident of this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights." Section 38 of the same article further provides: "No educational or property qualification for suffrage or office, nor any restraint upon the same, on account of race, color, or previous condition of servitude, shall be made by law." Section 1, article 17, provides: "The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution, which, having been read three times on three successive days, shall be duly published, in such manner as the general assembly may direct, at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of State; and if it shall thereupon appear that a majority of all the qualified electors of the State, who voted for representatives, voted in favor of the proposed amendments, said amendments shall be valid to all intents and purposes as parts of this constitution, and the results of such election shall be made known by proclamation of the governor."

In *May & Thomas Hardware Co. v. Mayor, etc., of Birmingham*, (123 Ala., 306, 26 South, 537), the late Chief Justice McClellan, in delivering the unanimous opinion of the court, said, after having quoted at length section 1, article 17:

"Under and in supposed conformity to this organic provision, the general assembly of 1896-97 passed 'An act to submit to the people of the State at the general election to be held on the first Monday in August, 1898, for representatives, for their consideration, an amendment to section 7, article 11 of the constitution, providing a special tax of one-half of 1 per centum for the city of Birmingham, to be applied to the payment of interest on the bonds of said city, and for a sinking fund to pay off said bonds at the maturity thereof.' (Laws 1896-7, p. 1202.) * * *

"The position of the appellant, as we understand it, is that section 3 of the act is unconstitutional and void, and that, of consequence, the amendment declared to have been adopted at the election held under it is likewise void, for that: First, that section violates the spirit and purpose of section 1 of article 17 of the constitution, quoted above, which requires to the validity of an amendment that a majority of all the qualified voters voting at the election shall vote in favor of the proposed amendment; and, second, that the statute, or rather said section 3 thereof, is violative of section 1 of article 8 of the constitution, which prescribes the 'qualifications of electors, and guarantees to every citizen possessing the prescribed qualifications the right to vote at every election by the people.' And the argument in support of the first proposition is, in the brief of appellant's counsel, thus epitomized: '(a) Under the provisions of the statute, the amendment might be declared adopted, although a majority of all the qualified voters of the State who voted at the election had no intention, when they voted for State and county officers, to vote upon the proposed amendment, or did not manifest any intention to vote for the amendment, or desired to

refrain from voting on the proposition. (b) The provisions of the statute render it impossible to ascertain with certainty whether a majority of all the electors of the State who voted at the election actually and affirmatively voted for the amendment, within the spirit and meaning of the constitution. (c) The constitution requires positive, affirmative action on the part of the elector to manifest an intention to vote in favor of the amendment, and no action to manifest an intention to vote against it. This statute requires positive, affirmative action on the part of the elector to manifest an intention to vote against the amendment, and no affirmative action to manifest an intention to vote in favor of it. (d) The constitution presumes that every elector who votes for any State or county officer at the election, but fails to vote, or for any reason refrains from voting, on the proposition to amend, is against the amendment, and, in effect, requires his ballot for State and county officers to be counted as a vote against the amendment. This statute assumes that every elector who does not wish to vote directly against the amendment by striking out the words, "For Birmingham amendment," will vote in favor of it, and requires his ballot to be counted in favor of the amendment, although he may have had no intention to vote in favor of it, or any knowledge that any such proposition was pending to be voted on.'

"It may well be assumed that the foregoing skeleton of counsel's argument presents every consideration worthy of attention against the validity of this statute, under section 1 of article 17 of the constitution. Certainly no other plausible objection to its integrity occurs to us; and, upon the positions taken by them, we will consider this part of the case. In the outset it is, of course, to be admitted that it is essential to the adoption of any proposed amendment to the constitution that a majority of the electors voting at the election at which the proposition is submitted should vote for the amendment. That is the plain requirement of the organic law; and, of course, any statute which undertook to provide for the adoption of such an amendment upon a less number of favoring votes than a majority of those so voting, or which made it possible, in legal contemplation, for the amendment to rest upon the favoring votes of a minority of the electors so voting, would be violative of the constitution and void. It is further to be taken for granted that a vote for a proposition necessarily implied the expression of the voter's opinion, position, or preference in favor of or for that proposition; and a statute which authorizes or admits of the counting for a proposed amendment to the constitution a ballot which does not involve, directly, or by necessary implication, such expression favorable thereto, would be invalid and of no effect. And so the inquiry in this connection is whether this statute authorizes or admits of the counting for this amendment of ballots which can be said not to evidence the voters' predilection for and intention to support the amendment, or rather, which can not be said to manifest such predilection and intention. We do not think the enactment authorizes or admits of any such thing. Every voter is presumed to know what is on any ballot he deposits as an expression of his will upon men and measures submitted for his consideration and action as an elector. Every voter who can read does know what his ballot contains. And the law furnishes the illiterate voter with easy and convenient means of information as to what his ballot contains, and, when he deposits it, the presumption of law is that he, as well as his educated fellow elector, knows what is upon it and has expressed the desire as between candidates and upon propositions which the paper indicates. This presumption of law is absolutely essential to popular government. The presumption is indulged, because every practical means has been resorted to to acquaint the voter with the contents of his ballot, and he, in fact, does know its contents. If the fact were otherwise, the presumption could not exist, and government by ballot would be impossible. Until within a few years past it was, and for long had been, under the present and former constitutions, the law and practice for the names of only a certain set of candidates, the nominees of a political party, to appear upon a ballot. The voter who deposited such a ballot without erasing any of the names upon it thereby expressed his choice of all the persons whose names so appeared. If he wished not to vote for any person on the ticket he could do so only by striking out that name. If he wished to vote for a person for a particular office whose name did not appear on the ballot, he would have to strike out the candidate for that office whose name did appear, and substitute the name of the person of his choice. If he erased no name he was conclusively presumed to have voted for every person on the list. Or, when there has been no party nominations, and all candidates for a given office appeared on the same ballot, as frequently occurred, the voter

had to erase the names of all the candidates except the one for whom he intended to vote; and, if he left all the names on the ballot, he was held to have voted for the person whose name first appeared thereon; and, that all candidates might have equal advantage in view of the law on this point, it was the custom to give priority on the ballot to each on an equal number of tickets, so that if A B and Y Z were candidates for an office, and 1,000 tickets were printed, the name of A B would appear first on 500 tickets, and that Y Z would appear first on the remaining 500. And, where there was a party ticket, and no erasure upon it, the conclusive presumption of law was that the voter intended to vote for every person whose name appeared to fill the office for which he was a candidate, as indicated by the ticket; or, in other words, that he knew all that the ticket contained, and adopted it as the expression of his views, and there was really never any question of fact as to whether such tickets actually represented the intent of the voters—they always did. So where the names of two or more candidates for the same office appeared, and there was no erasure, the law held the voter to a knowledge that, under the law, the first-named person would be credited with having received his vote; and while, as we have seen, there was some notion abroad, under this provision of law and the practice, that in such case the person first named might be credited with votes which were not intended to be cast for him, or for the office at all, leading to the alternation of names through a series of tickets, yet it was never seriously questioned that such a ballot represented in point of fact the affirmative choice of the voter for the first-named candidate. And such was the necessary and conclusive presumption of law based upon substantial uniformity of fact. Affirmative manifestation of the voter's intent was as essential then as it is now; and it was then, and is now, as essential in respect of the election of officers as it was then, and is now, in respect of propositions submitted to the electors. And it was then, and has always been, held that the necessary affirmative manifestation of intent is that manifestation which appears on the words of the ballot which the voter deposits, even when those words take on a peculiar meaning from their collocation by sheer force of a statute of which the voter might be entirely ignorant; and all this, regardless of the voter's illiteracy. How much stronger, then, and more fully justified, is the presumption when a voter casts a ballot upon which is printed the information that an amendment to the constitution is to be voted upon, and that, if he deposits that ballot as it is, he expresses his favor for the amendment, when, to state this case, there is printed on the official ballot the words, "For Birmingham amendment"—how much nearer to absolute certainty is the implication that when the voter casts the ballot he intends it as an affirmative expression of his will, and that it is an affirmative manifestation of his purpose to support and favor the amendment? And this is all the constitution in respect of the adoption of such amendments requires: That the voter shall vote for the amendment; that he shall favor the adoption of the amendment; and that he shall deposit a ballot which on its face, assuming knowledge on his part of its contents, evidences his wish that the proposed amendment should become part of the organic law. And so, indulging this presumption, because it is justified by the facts and is a *sine qua non* to government by the people, there is no difficulty in ascertaining with the same certainty that has always sufficed in elections whether a majority of the voters voting at the election provided for in this act 'actually and affirmatively' voted for the amendment, within the spirit and meaning of the constitution.' Since the result is to be arrived at by counting for the amendment all the ballots which have the words, 'For Birmingham amendment,' intact upon them, and against it all those ballots from which those words have been erased, there is no danger of the adoption of the amendment being declared, although a majority of the voters had no intention to vote on or for the amendment; but to the contrary, the ballots themselves conclusively evidence that manifestation of the voters' intention which the constitution requires. And this is all that the constitution does require—a majority of the votes cast at that election for the amendment. When there is such majority shown by affirmative ballots, the constitution is not concerned about the minority. If that minority desired not to vote at all on the proposition, and so to be counted against it, the fact that under this act they had to vote one way or the other, had either to strike off the amendment and so vote against it, or to leave it on and so vote for it, does not destroy the integrity of the majority of the whole vote at that election who have in legal contemplation affirmatively expressed their favor for the amendment. The whole argument for appellant on this part of the case, it seems to

us, is at fault, in assuming that the casting of a ballot upon which are printed the words, 'For Birmingham amendment,' is not affirmative action on the part of the voter in favor of the amendment. That assumption being eliminated, the argument falls to the ground, and the conclusion we are asked, in this connection to draw against the law, has nothing to rest upon.

"As part and in conclusion of our discussion of the case in this connection, we adopt an opinion upon it prepared by Judge R. W. Walker, at the instance of appellee's counsel. After stating the provisions of section 3 of the act, he says: 'The question submitted is—is there anything in the constitution of Alabama which prohibited the legislature from making the regulation contained in said section in respect of the preparation of the ballot and the manner of voting? In other words, was it competent for the legislature to prescribe that the words, "For Birmingham amendment," should be printed on the official ballots, and to declare that the leaving of said words upon the ballot shall be taken as a favorable vote, and the erasure or striking out of said words shall be taken as an adverse vote upon said amendment? The extent of the requirements of the constitution of Alabama touching the method of voting upon a proposed amendment is the provision that all elections by the people shall be by ballot and the provision for the opening of a poll for the vote of the qualified electors on the proposed amendment. These two provisions together amount simply to a requirement that a proposed amendment shall be submitted to the qualified electors of the State for their vote upon it by ballot. The constitution expressly remits to the general assembly the matter of regulating and governing elections by laws which are required to be uniform throughout the State. It can not be doubted that the form of the ballot and the method of indicating the voter's choice are matters for legislative regulation. Of course it would not be competent for the legislature, under the guise of regulations, to effect a practical denial of the free exercise of the elective franchise. But there can be no question of a regulation, really amounting to a deprivation, of the right to vote where the meaning of what is put upon the ballot required to be used by the voter is plain to a common understanding and the method prescribed for the indication of his choice by the voter is easy to be comprehended and not difficult to be followed. It is certainly not unreasonable to assume that the voter is to inform himself of the contents of the ballot he casts where the meaning is obvious to one who can read and could not be misunderstood by an illiterate voter who seeks information as to what is upon the ballot put into his hands. The words, "For Birmingham amendment," printed in a conspicuous place upon the ballot in question, plainly indicate a choice in favor of the amendment. A voter casting a ballot known to have these words upon it must have understood that he was thereby expressing himself in favor of the amendment. If he wished to vote against the proposed amendment, all that was required was the erasure or striking out with pen or pencil of those words. The method prescribed by the statute for the voter indicating his choice to vote for or against the amendment was simplicity itself, and though that method varied from the one adopted in the recently enacted general election law, yet it was a method by no means unfamiliar to the electors of the State. As to the method of voting on this amendment, the legislature simply revived the old way, familiar to the people of casting an adverse vote, by "scratching the ticket." It seems that any suggestion against the validity of the provision in question must be based upon the assumption that it was not competent for the legislature to make a provision in deference to the ballot which involves the possibility of a vote in favor of a person or proposition being the result of the voter's deliberate or negligent failure to inform himself of the contents of the ballot he casts and of the method prescribed by law for the indication of his choice. Any such assumption I regard as wholly unwarranted. Where the method of indicating his choice the one way or the other is plain and simple, the provision on the subject can not be rendered invalid by the mere possibility that, as the result of the carelessness of the voter, his act in casting his ballot may have an effect not actually contemplated by him.'

"And so we conclude that the first objection to the act relied on, as stated in the beginning of this opinion by appellant's counsel, is untenable and unavailing.

"Of the second ground of objection to the act above stated little, we think, need be said. It is, to repeat, that 'the statute violates section 1 of article 8 of the constitution, which fixes the qualifications of voters, and guarantees to every citizen possessing these qualifications the right to vote at every election by the people.' And the argument is that, inasmuch as the constitution does not

require the elector to vote upon all offices to be filled at an election, but only in respect of such as he desires, and that, as is insisted, the same principle obtains in respect of an amendment, so that the organic law contemplates that an elector voting for candidates for office may refrain from voting for amendments, this statute adds an additional qualification, in that it requires him to vote on this amendment as a necessary incident to his vote of offices, or, as said by counsel: 'The statute takes away from the elector his right, recognized by the constitution, to refrain from voting on the amendment, and at the same time to vote for the State and county offices to be filled at the election.' This position takes no account of the consideration that under any possible form of submitting a proposed amendment to the people, every elector who votes for a State or county office at the election must, through the operation of the constitution itself, in effect, vote for or against the amendment. Article 17, section 1, provides, as we have seen, that an amendment must receive 'a majority of all the qualified electors of the State who vote at a general election to which it is submitted'—a majority, not of those who vote on the amendment, but of those who deposit ballots for any purpose. Hence it is that if an elector votes for a State or county office, he necessarily votes on the amendment, for, though his ballot contains no reference to the amendment, he is counted against it. So that by the terms of the constitution itself he is deprived of the right to refrain from voting on an amendment if he votes for any State or county office; and the statute can not be violative of the constitution for having this same operation and effect. The most that can be said of the statute in this connection is that under it it is easier for the elector to vote for the amendment than against it, in that to vote against it he is put to the physical exertion of drawing a pen or pencil through the words 'For Birmingham amendment,' and he may vote for it without doing this; and of this it is sufficient to say that such regulations have been several times, and we think correctly, held valid."

(See also *Cook v. State*, 90 Tenn. 407, 16 S. W. 471, 13 L. R. A. 183; *Ransom v. Black*, 54 N. J. Law, 446, 24 Atl. 489, 16 L. R. A., 769; *Ritchie v. Richards*, 14 Utah 345, 47 Pac. 670.)

What is the difference between where the names of the nominees of a political party are placed upon a ballot, all of whom are to be voted for by placing a cross in the circle under the emblem and the case at bar? The party that does not desire to vote a straight party ticket is required to place a cross in the square opposite the name of each person he desires to vote for. If the ballot form prescribed by said act of March 17, 1910, is invalid, the provision of law in this State permitting the party that desires to vote a straight party ticket to put a cross in the circle under the rooster, eagle, or other party emblem to indicate his intention of thereby voting for all of said candidates would be void, as the party who did not desire to vote a straight ticket would have an additional burden placed upon him, and the election laws existing under the Territory of Oklahoma, as well as such laws as now are in force, would be repugnant to the provisions of the constitution.

This amendment was adopted by virtue of the initiative and referendum powers of the constitution (secs. 2 and 3, art. 5, and sec. 3, art. 24, const. Okla.). The petitions were prepared, filed, and submitted in accordance therewith. The initiative and referendum provision, not being self-enforcing (*Ex parte Wagner*, supra), legislation was essential. In cases where such amendments have been suggested by the legislature by concurrent resolution, a certain form of ballot is prescribed. It having been especially committed to the legislature to enact laws, "for carrying into effect provisions relating to the initiative and referendum" (art. 5, sec. 58, const.), courts will not revise such discretionary powers. (*State v. Shields*, 4 Mo. App. 259; *Okla. City v. Shields*, 22 Okla., 265; 100 Pac., 559. In re *Menefee*, *Treas.*, 22 Okla., 365; 97 Pac., 1014. *Rakowski v. Wagoner*, 24 Okla., 282; 103 Pac., 632. *State v. Brown*, Judge, 24 Okla., 433; 103 Pac., 763.) Such form of ballot having been prescribed in the valid exercise of its legislative discretion, this court can not revise same. So section 10, article 1, chapter 44, page 447, session laws 1907-8 does not apply to said submission under the initiative and referendum.

Said amendment, having been legally adopted, seems to harmonize with all the provisions of the constitution of this State, unless it be section 6 of article 1. This section is merely declaratory of the fifteenth amendment to the Federal Constitution, and will be considered under subdivision 2 of this opinion. As to all other provisions of the State constitution, said provision appears to

harmonize and to have been adopted in all respects in accordance therewith.

2. “* * * No State shall make or enforce any law which shall abridge the privileges of immunities of citizens of the United States nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” (Sec. 1, art. 14, Amendment to the Federal Constitution.) “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” (Sec. 1, art. 15, Amendment to the Federal Constitution.) Section 4a of article 3, *supra*, provides: “No person shall be registered as an elector of this State, or be allowed to vote in any election herein, unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was on January 1, 1866, or at any time prior thereto entitled to vote under any form of government, or who at that time resided in some foreign nation and no lineal descendant of such person shall be denied the right to register and vote because of his inability to so read and write sections of such constitution. Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration provided registration be required. Should registration be dispensed with the provisions of this section shall be enforced by the present election officers when electors apply for ballots to vote.”

In *Williams v. State of Mississippi* (170 U. S., 220, 18 Sup. 583, 42 L. Ed., 1015), Mr. Justice McKenna, in delivering the unanimous opinion of the court, said, “It is not asserted by plaintiff in error that either the constitution of the State or its laws discriminate in terms against the negro race, either as to the elective franchise or the privilege or duty of sitting on juries. These results, if we understand plaintiff in error, are alleged to be effected by the powers vested in certain administrative officers. Plaintiff in error says: ‘Section 241 of the constitution of 1890 prescribes the qualifications for electors; that residence in the State for two years, one year in the precinct of the applicant, must be effected; that he is 21 years or over of age, having paid all taxes legally due of him for two years prior to 1st day of February of the year he offers to vote; not having been convicted of theft, arson, rape, receiving money or goods under false pretenses, bigamy, embezzlement. Section 242 of the constitution provides the mode of registration; that the legislature shall provide by law for registration of all persons entitled to vote at any election; that all persons offering to register shall take the oath; that they are not disqualified for voting by reason of any of the crimes named in the constitution of this State; that they will truly answer all questions propounded to them concerning their antecedents so far as they relate to the applicant’s right to vote, and also as to their residence before their citizenship in the district in which such application for registration is made.’ The court readily sees the scheme. If the applicant swears, as he must do, that he is not disqualified by reason of the crimes specified, and that he has effected the required residence, what right has he to answer all questions as to his former residence? Section 244 of the constitution requires that the applicant for registration after January, 1892, shall be able to read any section of the constitution, or he shall be able to understand the same (being any section of the organic law) or give a reasonable interpretation thereof. Now, we submit that these provisions vest in the administrative officers the full power, under section 242, to ask all sorts of vain, impertinent questions, and it is with that officer to say whether the questions relate to the applicant’s right to vote. This officer can reject whomsoever he chooses, and register whomsoever he chooses, for he is vested by the constitution with that power. Under section 244 it is left with the administrative officer to determine whether the applicant reads, understand, or interprets the section of the constitution designated. The officer is the sole judge of the examination of the applicant, and, even though the applicant be qualified, it is left with the officer to so determine; and the said officer can refuse him registration. To make the possible dereliction of the officers the dereliction of the constitution and laws, the remarks of the supreme court of the State are quoted by plaintiff in error as to their intent. The constitution provides for the payment of a poll tax, and by a section of the code its payment can not be compelled by a seizure and sale of property. We gather from the brief of counsel that its payment is a condition of the right to vote, and, in a case to test whether its payment was or was not optional (*Ratliff v. Beale*, 74 Miss., 247, 20 South, 865, 34 L. R. A., 472), the supreme court of the State said: ‘Within the field of

permissible action under the limitations imposed by the Federal Constitution the convention swept the circle of expedients to obstruct the exercise of the franchise by the negro race.' And further the court said, speaking of the negro race: 'By reason of its previous condition of servitude and dependence, this race had acquired or accentuated certain peculiarities of habit, of temperament, and of character, which clearly distinguishes it as a race from that of the whites—a patient, docile people, but careless, landless, a migratory within narrow limits, without forethought, and its criminal members given rather to furtive offenses than to the robust crimes of the whites. Restrained by the Federal Constitution from discriminating against the negro race, the convention discriminated against its characteristics and the offenses to which its weaker members were prone.' But nothing tangible can be deduced from this. If weakness were to be taken advantage of, it was to be done 'within the field of permissible action under the limitations imposed by the Federal Constitution,' and the means of it were the alleged characteristics of the negro race, not the administration of the law by the officers of the State. Besides the operation of the constitution and laws is not limited by their language or effects to one race. They reach weak and vicious white men as well as weak and vicious black men, and whatever is sinister in their intention, if anything, can be prevented by both races by the exertion of that duty which voluntarily pays taxes and refrains from crime."

In *Pope v. Williams et al.* (193 U. S., 621; 24 Sup. Ct., 573; 48 L. Ed., 817), Mr. Justice Peckham, in delivering the opinion of the court, said: "The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. (*Minor v. Happersett*, 21 Wall., 162; 22 L. Ed., 627.) It may not be refused on account of race, color, or previous condition of servitude; but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution. The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in *Minor v. Happersett* (21 Wal., 162; 22 L. Ed., 627), such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; although it may be observed that the right to vote for a Member of Congress is not derived exclusively from the State law. (See Const. U. S., art 1, sec. 2; *Wiley v. Sinkler*, 179 U. S., 58; 45 L. Ed., 84; 21 Sup. Ct., 17.) But the elector must be one entitled to vote under the State statute (*Id.*, *id.*; see, also, *Swafford v. Templeton*, 185 U. S., 487, 491; 46 L. Ed., 1005, 1007; 22 Sup. Ct., 783.) In this case no question arises as to the right to vote for electors of President and Vice President and no decision is made thereon. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. We do not wish to be understood, however, as intimating that the condition in this statute is unreasonable or in any way improper. We are unable to see any violation of the Federal Constitution in the provision of the State statute for the declaration of the intent of a person coming into the State before he can claim the right to be registered as a voter. The statute, so far as it provides conditions precedent to the exercise of the elective franchise within the State, by persons coming therein to reside (and that is as far as it is necessary to consider it in this case), is neither an unlawful discrimination against anyone in the situation of the plaintiff in error, nor does it deny to him the equal protection of the laws, nor is it repugnant to any fundamental or inalienable rights of citizens of the United States, nor a violation of any implied guaranties of the Federal Constitution. The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution. The reasons which may have impelled the State legislature to enact the statute in

question were matters entirely for its consideration, and this court has no concern with them."

(See also *Franklin v. South Carolina*, 218 U. S., 161; 30 Sup. Ct., 640; 54 L. Ed., —.)

By this amendment, which was suggested by concurrent resolution of the Legislature of the State of Oklahoma and proposed by an initiative petition on the part of the qualified electors of said State, and afterwards adopted by a majority of the electors "voting at an election held throughout the State," and thereby declared by the legislature, recommending and at least 15 per cent of the qualified electors joining in said petition with a majority of those voting at said election, approving the same, that said limitations on the right of suffrage were reasonable and not violative of the Federal or State Constitution. As was said in the Mississippi case, this amendment does not on its face discriminate between the races.

Limitations on the right of suffrage existed in the States on January 1, 1866, as follows: Connecticut (Const. 1836, art. 8, as adopted in 1845), an elector to be qualified must "sustain a good moral character." Delaware (Const. 1831, art. 4), electors, with certain exceptions, must have for two years next before the election paid a county tax, which shall have been assessed for over six months prior to said election. Massachusetts (Const. 1780, art. 3, adopted in 1822, as supplemented by art. 20 as adopted in 1857), an elector, with a few exceptions, must have paid by himself, his parent, master, or guardian, any State or county tax which shall have been assessed upon him, in any town or district of this Commonwealth, and, in addition thereto, must be able to read the constitution in the English language and write his name. Rhode Island (Const. 1842, art. 2, sec. 1), an elector, with certain exception, must be "really and truly possessed in his own right of real estate," in a town or city "of the value of \$134, over and above all incumbrances, or which shall rent for \$7 per annum, over and above any rent, reserved or the interest of any incumbrances thereon," etc. And section 2 of said article further provides that electors to be qualified must also have paid "a tax or taxes assessed upon his estate within said State and within a year of the time of voting" to the amount of \$1. Vermont (Const. 1793, ch. 1, art. 8; ch. 2, art. 39; and art. 1 of the amendment), an elector was required to be of good moral character, and have a "sufficient" evident, common interest with, and attachment to, the community. Virginia (Const. 1864, art. 3, sec. 1), an elector must have first "paid all taxes assessed to him."

In practically every State of the Union on January 1, 1866, persons were disqualified from voting who had been convicted of infamous crimes, unless such disqualification had been removed, etc. In addition, an alien residing in this country on January 1, 1866, neither having become a naturalized citizen nor having declared his intention to become a citizen of the United States, was not entitled to vote in any of the States. At that time there were many foreign Governments where the right of suffrage did not exist in any way, and in nearly all others where it existed at that time it was with many limitations. Such alien residing in the United States on January 1, 1866, neither being entitled to vote in the place of his residence nor under any organized government where he had previously resided or been a citizen of, and his descendants would also be subject to this educational qualification, coming within the excluded class as of the date of January 1, 1866. Further, the blanket Indians on January 1, 1866, had no organized form of government under which they might exercise the right of suffrage. The Cherokees, Chickasaws, Choctaws, Creeks, Osages, and Seminoles had such a government, and seem to have been the only tribes, the remnants of which now remain in this State, which had such a government.

Again many States have similar existing suffrage limitations where the same have been enforced and recognized in the election of State officers and Members of Congress (Const. Ala., 1901, sec. 180, pars. 1, 2; Const. La., 1898, art. 197, sec. 5; Const. N. C., 1876, art. 6, sec. 1; Const. Va., 1902, sec. 19, pars. 1, 2 (Code, 1904, p. cxxii). Maine has a provision (amendment 29, adopted in 1892), as follows: "No person shall have the right to vote or be eligible to office under the constitution of this State, who shall not be able to read the constitution in the English language and write his name: *Provided, however*, That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with the requisitions, nor to any person who now has the right to vote, nor to any person who shall be 60 years of age or upward at the time this amendment shall take effect." In the Maine provision the educational requirement is not to apply to any person then having the right to vote. The

Oklahoma provision, excluding from its operation persons having the right to vote on January 1, 1866, adopts the same principle, extending same so as to include their descendants. Paragraph 3 of section 1, article 7, Constitution of Minnesota, 1857, as amended November 3, 1868, provides as follows: "Persons of Indian blood, residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State, shall be entitled to vote." In the following States, on and prior to the 1st day of January, A. D. 1866, negroes were eligible to vote: Vermont (Const., 1793, c. 1, art. 8, and chap. 2, sec. 39, and art. 1 of its amendments); Massachusetts (Const., 1780, amend. arts. 3, 20); New Hampshire (Const., 1792, Bill of Rights, art. 11); Maine (Const., 1819, art. 1, sec. 1); Rhode Island (Const., 1842, art. 2); New York (Const. 1846, art. 2); Mich. (Const., 1850, art. 7); New Jersey (Const., 1683, art. 3; Const., 1776, art. 4; Const., 1844, art. 2). In the following other States free negroes were eligible to vote at different periods to January 1, 1866, to wit: Maryland (Const., 1776, Bill of Rights, sec. 5); Hughes v. Jackson (12 Md., 450). Tennessee (Const., 1796, sec. 1, art. 3). Texas (Const., 1836, sec. 11, art. 6; Const., 1845, sec. 2, art. 1). South Carolina (Const., 1778, art. 41). Kentucky (Const., 1792, sec. 1, art. 3). Delaware (Const. 1776, arts. 26, 27). Alabama (Const., 1819, sec. 1, art. 1). North Carolina (Const., 1776, art. 6). Connecticut (Chart., 1662; charter continued as constitution until 1818). Pennsylvania (Const., 1776, sec. 7, Decl. of Rights; Const., 1790, sec. 1, art. 3).

To say, because plaintiff or his ancestors, who were not entitled to vote under any organized form of government on or prior to January 1, 1866, or who were not then nonresident aliens having since come to the United States and become citizens of naturalization, that said amendment discriminates against them on account of race or color, is as unfounded as to say that a property qualification discriminates on account of previous condition of servitude, for the reason that if a man had not been held in bondage he would have been able to acquire property, as a slave could not acquire property any more than he could vote.

It is a matter of common knowledge that the population of this State is cosmopolitan, embracing people of every creed and race from practically every State in the Union. All of those persons who on January 1, 1866, or at any time prior thereto, were entitled to vote under any form of government or State or Territory of this Union, or who at that time residing in some foreign nation, afterwards came to the United States and by naturalization became citizens of the United States and their lineal descendants, regardless of race or previous condition of servitude, are permitted to vote at the elections in this State without complying with the educational requirements of said provision. That is a classification based upon a reason; that is, that any person who was entitled to vote under a form of government on or prior to said date is still presumed to be qualified to exercise such right, and the presumption follows as to his offspring—that is, that the virtues and intelligence of the ancestor will be imputed to his descendants, just as the iniquity of the fathers may be visited upon the children unto the third and fourth generation. But as to those who were not entitled to vote under any form of government on said date or at any prior time, and their descendants, there is no presumption in favor of their qualification, and the burden is upon them to show themselves qualified. This does not apply to any one race but to every race that falls within this disqualification. The alien who resided in some foreign country on the 1st day of January, 1866, who was not entitled to vote under that form of government, and who afterwards came to the United States and became naturalized, was required to undergo an examination to show himself qualified and fitted for citizenship, and when the courts of this Republic, or the different States thereof, exercising the powers of naturalization, have examined and passed upon his qualification, the presumption in favor of his qualification is recognized. The alien who resided in the United States on January 1, 1866, having not taken advantage of the opportunity to become a citizen of this Republic, and who had not previously been a qualified voter, under some form of government, falls within the class upon whom the educational restriction is imposed. No alien or foreigner can become a qualified elector in this State until he has by naturalization become a citizen of the United States. The negro, previously a slave, who became a freeman, or has always been such, and resided in Massachusetts, Vermont, New Hampshire, Maine, Rhode Island, or New York, Michigan, New Jersey, and certain other States, as named, at such times that free negroes were

permitted to vote, and otherwise being eligible to vote, living on January 1, 1866, or his descendants who reside in this State, may vote under this provision regardless of the educational requirement. As to the children of all electors, however, it is now compulsory upon them to attend the public schools of this State, and thereby receive an education. (Art. 1, c. 34, pp. 393, 395, Sess. Laws, 1907-8.)

But does this provision violate section 3 of the enabling act of Oklahoma of June 16, 1906 (ch. 3335, 34 Stat., p. 269), which provides that the constitution adopted in this State "shall make no distinction in civil or political rights on account of race or color"? We think not. However, the people of this State, by section 1 of the bill of rights, have declared "that all political power is inherent in the people and government is instituted for their protection, security, and benefit and to promote their general welfare, and they have the right to alter or reform the same whenever the public good may require it, provided such change be not repugnant to the Constitution of the United States."

The State was erected and admitted into the Union under this constitution, which was passed on by the President of the United States and his proclamation of admission issued thereon with such a declared reservation on the part of sovereignty. It is specifically provided in said section that the right to alter or reform the same whenever the public good may require it is limited by the proviso only to the extent that such alteration or revision shall not conflict with the Constitution of the United States. It has time and again been held that if the constitution of a State contains any modifications of the provisions of the enabling act whereby the State has been formally admitted by the President and Congress into the Union the modification contained in the constitution controls. (*Romine v. State et al.*, 7 Wash., 215, 34 Pac., 924; *Edwards v. Lesueur*, 132 Mo., 410, 33 S. W. 1130, 31 L. R. A., 815; *Williams v. Hert* (C. C.) 110 Fed., 166; *State of Montana v. Rice*, 204 U. S., 291, 27 Sup. Ct., 281, 51 L. Ed., 490.) It is therefore not essential in this case to determine whether a provision in the enabling act accepted by an irrevocable ordinance on the part of the State, preliminary to admission, could have a continuing, binding force upon the State after its erection and admission into the Union upon an equality with the other States so as to control the government in its sovereign capacity in the exercise of a purely governmental power.

That part of section 3 of the enabling act provides that the convention "shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States; whereupon the said convention shall and is hereby authorized to form a constitution and State government for said proposed State. The constitution shall be republican in form and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and Declaration of Independence." Section 4 of the enabling act provides: "* * * And if the constitution and government of said proposed State are republican in form, and if the provisions in this act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within 20 days from the receipt of the certificate of the result of said election and the statement of votes cast thereon and a copy of said constitution, articles, propositions, and ordinances, to issue his proclamation announcing the result of said election; and thereupon the proposed State of Oklahoma shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original States." The provision of section 3 was directed to the constitutional convention as to the character of constitution to frame, which having been so framed and adopted, the President was to issue his proclamation thereon. It was not attempted to continue that part of the enabling act in force forever as an irrevocable limitation on the sovereign powers of the State in that respect.

In *Williams v. Mississippi*, supra, it was said:

"It can not be said, therefore, that the denial of the equal protection of the laws arises primarily from the constitution and laws of Mississippi, nor is there any sufficient allegation of an evil and discriminating administration of them. The only allegation is 'by granting a discretion to the said officers, as mentioned in the several sections of the constitution of the State, and the statute of the State adopted under the said constitution, the use of which discretion can be and has been used by said officers in the said Washington County to the end here complained of, to wit, the abridgment of the elective franchise of the colored voters of Washington County, that such citizens are denied the right to be selected as jurors to serve in the circuit court of the county, and

that this denial to them of the right to equal protection and benefits of the laws of the State of Mississippi on account of their color and race, resulting from the exercise of the discretion partial to the white citizens, is in accordance with and the purpose and intent of the framers of the present constitution of said State.'

"It will be observed that there is nothing direct and definite in this allegation either as to means or time as affecting the proceedings against the accused. There is no charge against the officers to whom is submitted the selection of grand or petit jurors or those who procure the list of the jurors. There is an allegation of the purpose of the convention to disfranchise citizens of the colored race, but with this we have no concern unless the purpose is executed by the constitution or laws or by those who administer them. If it is done in the latter way, how or by what means should be shown. We gather from the statements of the motion that certain officers are invested with discretion in making up lists of electors, and that this discretion can be and has been exercised against the colored race, and from these lists jurors are selected. The Supreme Court of Mississippi, however, decided, in a case presenting the same questions as the one at bar, 'that jurors are not selected from or with reference to any lists furnished by such election officers.' (*Dixon v. State*, 74 Miss., 278, 20 South., 841, Nov. 9, 1896.)

"We do not think that this case is brought within the ruling in *Yick Wo v. Hopkins*, Sheriff (118 U. S., 356; 6 Sup. Ct., 1064; 30 L. Ed., 220). In that case the ordinances passed on discriminated against laundries conducted in wooden buildings. For the conduct of these the consent of the board of supervisors was required, and not for the conduct of laundries in brick or stone buildings. It was admitted that there were about 320 laundries in the city and county of San Francisco, of which 240 were owned and conducted by subjects of China, and of the whole number 310 were constructed of wood, the same material that constitutes nine-tenths of the houses of the city, and that the capital invested was not less than \$200,000.

"It was alleged that 150 Chinamen were arrested and not one of the persons who were conducting the other 80 laundries and who were not Chinamen. It was also admitted 'that petitioner and 200 of his countrymen similarly situated petitioned the board of supervisors for permission to continue their business in the various houses which they had been occupying and using for laundries for more than 20 years, and such petitions were denied, and all the petitions of those who were not Chinese, with one exception, that of Mrs. Mary Meagles, were granted.' The ordinances were attacked as being void on their face and as being within the prohibition of the fourteenth amendment, but, even if not so, that they were void by reason of their administration. Both contentions were sustained. Mr. Justice Matthews said that the ordinance drawn in question 'does not prescribe a rule and conditions for the regulation of the use of property for laundry purposes, to which all similarly situated may conform. It allows without restriction the use for such purposes of buildings of brick or stone; but as to wooden buildings, constituting nearly all those in previous use, it divides the owners or occupiers into two classes, not having respect to their personal character and qualifications for the business nor the situation and nature and adaption of the buildings themselves, but merely by an arbitrary line, on one side of which are those who are permitted to pursue their industry by the mere will and consent of the supervisors, and on the other those from whom that consent is withheld, at their mere will and pleasure.' The ordinances, therefore, were on their face repugnant to the fourteenth amendment. The court, however, went further and said: 'This conclusion and the reasoning on which it is based are deductions from the face of the ordinance as to its necessary tendency and ultimate actual operation. In the present cases we are not obliged to reason from the probable to the actual, and pass upon the validity of the ordinances complained of, as tried merely by the opportunities which their terms afford, of unequal and unjust discrimination in the administration, for the cases present the ordinances in actual operation, and the facts shown establish an administration directed as exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the ordinances as adopted, they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secure to the petitioners, as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States. Though the law itself be fair on

its face and impartial in appearance, yet if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution. This principle of interpretation has been sanctioned in *Henderson v. Mayor of New York* (*Henderson v. Wickham*), 92 U. S., 259, 23 L. Ed., 543; *Chy Lung v. Freeman*, 92 U. S., 275, 23 L. Ed., 550; *Ex parte Virginia*, 100 U. S., 339, 25 L. Ed., 676; *Neal v. Delaware*, 103 U. S., 370, 26 L. Ed., 567; and *Soon Hing v. Crowley*, 113 U. S., 703, 5 Sup. Ct., 730, 28 L. Ed., 1145.

"This comment is not applicable to the constitution of Mississippi and its statutes. They do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them."

As was said by the Supreme Court of the United States in *Pope v. Williams*, supra, the reasons which may have impelled the people to adopt this amendment were matters entirely for their consideration, and this court has no concern with them.

This amendment has never been put in operation since its adoption, and how could it be "shown that their (its) actual administration was evil until the same is put in operation"? (*Williams v. Mississippi*, supra.) Every election officer is sworn not only to observe but also to obey the law, which includes this amendment. And the presumption is that they will fairly carry the law into effect. Should the election officers knowingly and willfully exclude negroes from voting who are qualified to vote under section 4a, article 3, sufficiently in number, had all been counted for the next highest candidate, to have changed the result of the election, said election would be void. (*Martin v. McGarr*, recently decided but not yet officially reported, 112 Pa., —.)

The parties hereto in the argument have treated the questions as properly raised under this proceeding. Without passing on whether the proper remedy had been invoked for the purpose of this case we have assumed that such relief may be obtained by injunction.

The judgment of the lower court is affirmed.

Dunn, C. J., and Hayes and Turner, JJ., concur. Kane, L., concurs in the conclusion reached, but dissents from that part of the reasoning as to the enabling act.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

I, Mary S. Stotler, notary public in and for Oklahoma County, State of Oklahoma, do hereby certify that the above and foregoing pages, marked and numbered, respectively, at the bottom of each page, 1 to 18, inclusive, is a full, true, correct, and complete copy of Exhibit D, introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America wherein John J. Carney is contestant and Dick T. Morgan is contestee.

[SEAL.]

MARY S. STOTLER,
Notary Public, *Oklahoma County, Okla.*

My commission expires September 1, 1914.

CONTESTEE'S EXHIBIT E.

EX PARTE SHOW.

Criminal Court of Appeals of Oklahoma, December 3, 1910.

[Syllabus by the Court.]

1. HABEAS CORPUS (sec. 30)—GROUNDS OF REMEDY.

The general rule is that the writ of habeas corpus may not be used, either before or after conviction, to test the sufficiency of an indictment or information; but the rule is subject to the qualification that when the accusation is not merely defective, or technically insufficient, not merely demurrable or subject to a motion to quash, but is fundamentally defective in substance, so that it

changes a crime in no manner or form and by no intendment, a party in custody to answer thereto, or after conviction thereon, will be discharged on habeas corpus.

2. CONSTITUTIONAL LAW (sec. 32)—QUALIFICATIONS OF VOTERS—CONSTRUCTION OF CONSTITUTION.

Section 4a of article 3 of the State constitution, being an amendment adopted by the people at the election held on August 2, 1910, prescribing an educational qualification for certain voters, is self-executing.

3. ELECTIONS (sec. 223)—QUALIFICATIONS OF VOTERS—DETERMINATION.

The question of a person's possession of the educational qualification prescribed for voters by section 4a of article 3 of the State constitution is to be determined by the precinct election inspector having registration in charge, and at the time of registration, if registration is required; and it is only when and where registration is dispensed with that such question is to be determined by the precinct election officers at the polls.

4. ELECTIONS (sec. 113)—QUALIFICATIONS OF VOTERS—EVIDENCE—REGISTRATION.

Under article 8, chapter 31, Session Laws, 1907-8, registration is required in cities of the first class in this State, and electors therein, to be entitled to vote, are required to register during the month of July preceding each biennial primary election held in August; but persons who become legal voters subsequent to such registration, and on or before the general election in November, may register during the last week in October preceding the general election in November.

5. ELECTIONS (sec. 113)—QUALIFICATIONS OF VOTERS—EVIDENCE—REGISTRATION.

Since the act approved March 28, 1910, providing for the challenge of any voter, and further providing that after challenge, he may vote only upon making a certain affidavit therein prescribed, the registration provided for in article 8, chapter 31, Session Laws, 1907-8, is only *prima facie*, and not conclusive, evidence of the possession of the qualifications mentioned in the subsequent act approved March 28, 1910.

6. ELECTIONS (sec. 113)—QUALIFICATIONS OF VOTERS—EVIDENCE—REGISTRATION.

Registration made in July, 1910, is no evidence of a person's possession of the educational qualification prescribed for electors by the constitutional amendment adopted August 2, 1910; but registration made in October, 1910, being subsequent to the adoption of the amendment, establishes such qualification.

7. ELECTIONS (sec. 223)—QUALIFICATIONS OF VOTERS—CONSTRUCTION OF STATUTES.

Section 4 of the act of the legislature approved March 28, 1910 (Laws, 1910, c. 116), prescribes no test whatsoever of a person's qualification to vote under section 4a of article 3 of the constitution adopted on August 2, 1910.

8. ELECTIONS (sec. 223)—QUALIFICATIONS OF VOTERS—DETERMINATION.

When it appears that a person offering to vote in a city of the first class has not registered since the adoption of the constitutional amendment on August 2, 1910, and was not on January 1, 1866, or at some time prior thereto, entitled to vote under any form of government, and did not on said date reside in some foreign nation, and is not a lineal descendant of such person, the precinct election officers may lawfully require such person to read and write a section of the constitution before permitting him to vote.

9. ELECTIONS (sec. 328)—VIOLATION OF ELECTION LAWS—DEFAUDING ELECTOR OF HIS VOTE—PROSECUTION—SUFFICIENCY OF INFORMATION.

An information, charging a precinct election inspector in a city of the first class with the offense of defrauding B of his vote, showed that B was not entitled to vote under any form of government on January 1, 1866, or at any time prior thereto, did not on that date reside in some foreign nation, and was not the lineal descendant of such a person. It charged that B made and tendered an affidavit as to his qualifications, as prescribed in section 4 of the act approved March 28, 1910 (Laws, 1910, c. 116), in which affidavit was incorporated the additional statement that B could read and write any section of the State constitution; that the inspector nevertheless refused to permit B to vote until the latter should first read and write a section of the constitution in the inspector's presence. The information did not allege whether B had registered as an elector, and if so, at what time. *Held*, That the information was

defective in failing to allege that B had registered as a voter subsequent to the adoption of the constitutional amendment prescribing an educational qualification for voters; and the county attorney having stated in open court that B was not registered after the adoption of said amendment, and that the information, therefore, could not be amended in that respect, no offense was alleged or could be alleged, and petitioner is entitled to be discharged.

[Additional Syllabus by Editorial Staff.]

10. INDICTMENT AND INFORMATION (sec. 17)—“INDICTMENT” DEFINED.

Under Snyder's Comp. Laws, 1909, sec. 6674, an “indictment” is defined as “an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense.”

11. INDICTMENT AND INFORMATION (sec. 35)—“INFORMATION” DEFINED.

An “information” is defined to be a written accusation of crime preferred by the district attorney or other public prosecuting officer without the intervention of a grand jury.

Application of A. J. Show for a writ of habeas corpus. Writ granted and petitioner discharged.

R. L. Davidson, W. A. Ledbetter, and J. C. Stone, for petitioner. M. A. Breckenridge, county attorney, for respondent.

RICHARDSON, J. The petition herein, and the return to the writ issued thereon, show that on November 10, 1910, M. A. Breckenridge, county attorney of Tulsa County, filed in the county court of said county an information against the petitioner, A. J. Show, purporting to charge him with violating section 2083, Snyder's Compiled Laws, Oklahoma, 1909, by defrauding an elector of his vote, which information, omitting the caption, is in words and figures as follows, to wit:

“Be it remembered that M. A. Breckenridge, county attorney in and for Tulsa County, State of Oklahoma, who prosecutes in the name and by the authority of the State of Oklahoma, comes now into the county court of said county this 11th day of November, 1910, and gives the court to understand, and he informed, that A. P. Blakemore, then and there being over the age of 21 years, and a native male citizen of the United States, a resident of the State of Oklahoma for more than one year prior to November 8, 1910, of the county of Tulsa for more than six months prior to November 8, 1910, and a bona fide resident of election precinct 18, in the city of Tulsa, Tulsa County, State of Oklahoma, for more than 30 days prior to November 8, 1910, did, on the 8th day of November, 1910, at election precinct No. 18, in the city of Tulsa, Tulsa County, Oklahoma, and within the jurisdiction of this court, present himself to vote; by then and there announcing to the clerk of the election his true name, to wit, A. P. Blakemore, giving at the time to the said clerk his street number, to wit, 301 N. Frankfort Street; that thereupon the election inspector, one A. J. Show, challenged the right of the said elector, A. P. Blakemore, to vote, with the intent then and there to defraud the said A. P. Blakemore of his vote in this, to wit: By then and there unlawfully, willfully, and with the intent to defraud the said elector, A. P. Blakemore, out of his vote, asking the said A. P. Blakemore if he, the said A. P. Blakemore, was, on the 1st day of January, 1866, or at any time prior thereto, entitled to vote under any form of government, or whether he, the said A. P. Blakemore, at that time resided in some foreign nation, or was a lineal descendant of such person, and then and there demanded of and required the said A. P. Blakemore to answer said question, to each of which questions above set forth, said Blakemore answered “No.” That thereupon said election inspector, A. J. Show, demanded to know of said A. P. Blakemore if he, said A. P. Blakemore, could read and write any section of the constitution of the State of Oklahoma. That the aforesaid A. P. Blakemore then and there stated to said election inspector that he could both read and write any section of the constitution of the State of Oklahoma, and then and there the said election inspector demanded and requested of said A. P. Blakemore that he, the said A. P. Blakemore, then and there, in the presence of him, the said election inspector, A. J. Show, read and write a section of the constitution of the State of Oklahoma, offering to said A. P. Blakemore at the time pen, ink, and paper, and a copy of the constitution of the State of Oklahoma, the number or the section of the constitution demanded and requested to be read and written being to your informant unknown. That said A. P. Blakemore, then and there offered and presented to said election inspector.

A. J. Show, an affidavit in writing showing that said A. P. Blakemore could read and write any section of the constitution of the State of Oklahoma, said affidavit being in words and figures as follows:

"Tulsa County—township, 18 precinct. State of Oklahoma, county of Tulsa, ss. I do solemnly swear (1) I am a male citizen of the United States. (2) I am a native of the United States. (3) I have for more than thirty years last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct. (4) I have resided for more than six months last past in the county in which I am now offering to vote. (5) I have resided for more than one year last past in the State of Oklahoma. (6) I am over the age of 21 years. (7) I am not deprived of any of the rights of citizenship by virtue of any conviction of felony. (8) I am not now kept in a poor house or other asylum at public expense. (9) I am not now being kept in a public prison. (10) I am not a lunatic. (11) I am not an officer or a soldier in the Regular Army, or a marine in the Navy of the United States. (12) I know of no reason why I am not entitled to vote. (13) I am generally known by the name under which I now desire to vote, which is, A. P. Blakemore. (14) I have not voted and will not vote in any other precinct in this election. (15) My occupation is a preacher. (16) My residence is 301 Frankfort street, Tulsa, Oklahoma. (17) During the last six months I have resided at ——. (18) I have removed from ——. (19) That F. R. Williams and T. W. Gurley have personally known of my residence in the precinct thirty days and in the county six months and in the State one year. (20) ——. (21) I am able to read and write any section of the constitution of the State of Oklahoma. (22) That the writing upon the reverse side hereof is a section of the constitution of the State of Oklahoma, written in my own hand by me in the presence of N. G. B. Taylor and W. H. Woods, on the 8th day of November, 1910. A. P. Blakemore.

"Subscribed and sworn to before me this 8th day of November, 1910. M. L. Lynch, notary public. (Seal.) My commission expires July 27, 1912."

"That said election inspector, A. J. Show, then and there, for the purpose of defrauding said A. P. Blakemore out of his vote, refused to accept the affidavit as true, and then and there refused to allow said A. P. Blakemore to vote unless and until he, the said A. P. Blakemore, should then and there read and write the section of said constitution before mentioned in the presence and in the hearing of the said election inspector, A. J. Show. That all of the said acts by the election inspector, A. J. Show, were done with intent then and there upon the part of him, the said election inspector, A. J. Show, to defraud the said A. P. Blakemore out of his vote, contrary to the form of the statutes in such cases, made and provided, and against the peace and dignity of the State. M. A. Breckenridge, county attorney."

"State of Oklahoma, county of Tulsa, ss: A. P. Blakemore, being first duly sworn, on oath says that he has read and knows the contents of the foregoing information, and that the allegations and statements contained therein are true. A. P. Blakemore.

"Subscribed and sworn to before me this 10th day of November, 1910. Minnie M. Thomas, notary public. My commission expires February 8, 1913."

Upon this information the judge of the county court issued a warrant for petitioner's arrest, which the sheriff of the county duly executed. Being in custody thereunder, the petitioner has applied for a writ of habeas corpus to the end that he be discharged. His contention is that the information charges no crime, and does not authorize his detention to answer thereto. On the other hand, the respondent insists that the information charges a crime; and that, even if it does not, a writ of habeas corpus will not lie to determine its sufficiency, since the matter can be raised by appeal or writ of error. Section 6207, Snyder's Compiled Laws, 1909, provides that: "No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge him when the term of commitment has not expired, in either of the cases following. * * * "Fourth. Upon a warrant or commitment issued from the district court, or any other court of competent jurisdiction, upon an indictment or information." And the section following provides that: "No person shall be discharged from an order of commitment issued by any judicial or peace officer for want of bail, or in cases not bailable, on account of any defect in the charge or process, or for alleged want of probable cause. * * * " This statute was construed by the Supreme Court of the Territory of Oklahoma in the case entitled *In re Potswald* (5 Okla., 789; 50 Pac., 139), and it was there held that the statute was merely preparatory of the common law, and

that the court has power under it to inquire into and determine the validity of a process upon which a party is restrained of his liberty, and that the efficiency of the writ could not be so impaired by statute as to take away this power. It goes without saying that the writ can not be substituted for an appeal or writ of error for the correction of mere error, irregularity, or deficiencies, and that, unless the commitment or warrant under which a party is held is void and not merely voidable, the writ will not lie. The general rule is that the writ may not be used, either before or after conviction, to test the sufficiency of the indictment or information; but this is subject to the qualification recognized in almost every jurisdiction, that where the accusation is not merely defective, or technically insufficient, not merely demurrable or subject to a motion to quash or set aside, but is elementary and fundamentally defective in substance, so that it charges a crime in no manner or form and by no intendment, a party in custody to answer thereto, or after conviction thereon, will be discharged on habeas corpus. It was stated by Chief Baron Gilbert that, "If the commitment be against law, as being made by one who had no jurisdiction of the cause, or for a matter for which by law no man ought to be punished, the court are to discharge." (Bac. Abr. Hab. Corp. B. 10.) And Lord Hale said: "If it appeared by the return of the writ that the party be wrongfully committed or by one that hath not jurisdiction, or for a cause for which a man ought not to be imprisoned, he shall be discharged or bailed." (2 Hale's H. P. C., 144; In *Pereles v. Weil*, U. S. Marshal, (D. C.), 157 Fed., 419). Judge Sanborn used this language: "If the indictment is not sufficient on its face to show that an offense against the United States has been committed, the defendant should be discharged. If the indictment is good in substance, lacking only some technical averment of time or place or circumstances to render it free from technical defects, the order for removal will be issued if the evidence supplies such defects and shows probable cause to believe defendant guilty." Judge Dillon held likewise (In re Buell, 3 Dill. 116, Fed. Cas. No. 2102. See, also, In re Farez, 7 Blatchf. 34, Fed. Cas. No. 4, 644; In re Doig (C. C.), 4 Fed., 193; In re Corning, et al. (D. C.), 51 Fed., 205; In re Huntington (D. C.), 68 Fed., 881; In re Wolf (D. C.), 27 Fed., 606; In re Barber (D. C.), 75 Fed., 980; In re Greene (C. C.), 52 Fed., 104; *United States v. Connors* (D. C.), 111 Fed., 734.) The Supreme Court of California has passed upon this question in numerous cases. In *Ex parte Corryell* (22 Cal., 179), the syllabus is as follows: "Where, upon application for discharge by habeas corpus, it appears that the prisoner, by virtue of a commitment in due form, is detained to answer an indictment pending in a criminal court, the court or judge hearing the application may proceed to inquire whether the indictment charges any offense known to the law; and upon determining that it does not, may discharge the prisoner. The statement in an indictment of some offense known to the law is essential to the jurisdiction of the court, and is therefore under well-settled rules a fact which may be inquired into upon habeas corpus." In that case it was objected that the proceeding by habeas corpus was not proper, that the commitment emanated from a court of competent jurisdiction, and that its action in the premises was not subject to review on habeas corpus. To this the supreme court said: "The vice of the objection is that it assumes that the court had jurisdiction, whereas the fact of jurisdiction is the very fact which the petitioner disputes, alleging that the offense charged is one not known to the law. The court derives its jurisdiction from the law, and its jurisdiction extends to such matters as the law makes criminal, and none other, and, when it attempts to imprison for an offense to which no criminality is attached, it acts beyond its jurisdiction." Again, in *Ex parte Kearney* (55 Cal., 212), the court discharged the prisoner, saying: "This is not the case of a complaint inartificially drawn, which intimates the existence of the facts necessary to the constitution of offense, or even of an attempted statement, insufficient, but indicating a purpose to declare on the essential facts. It is a total failure to allege any cause of action, and, however objectionable the conduct imputed to the petitioner, he is no more, in the eye of the law, charged by complaint with any crime than if the paper had ascribed to him the most innocent of deeds." To the same effect are *Ex parte McNulty* (77 Cal., 164; 19 Pac., 237; 11 Am. St. Rep., 257); *Ex parte Sternes* (82 Cal., 245; 23 Pac., 38); and *Ex parte Maier* (103 Cal., 476; 27 Pac., 402; 42 Am. St. Rep., 129). And Church, on Habeas Corpus (2d ed.), section 245, lays down the same rule. He says: "While inquiry can not extend beyond an indictment into fields of unknown facts, the indictment itself may be examined upon habeas corpus,

although it appears that the defendant has been detained to answer it under a commitment in due form. The court or judge of the court wherein such indictment is pending may proceed to inquire whether it charges any offense known to the law, for this goes to the jurisdiction, which is always a proper subject of inquiry in a proceeding of this character. If such were not the case, the simple warrant of a court, however arbitrary it might be, would constitute a complete answer to the writ. An indictment must contain the statement of an offense known to the law, and under the rules well settled by judicial decision that this may be inquired into, if the court or judge determines that it does not, the prisoner must be discharged as a matter of right, particularly in those States where a statute provides that he shall be discharged when the process, though proper in form, has been issued in a case not allowed by law." And in the notes the author adds the following: "A court can punish for no act except what is made criminal by law. It has no power to punish for something unknown to the law. It has jurisdiction to try and punish only for certain offenses, and those must be made criminal by law. If an indictment shows no offense, there is no criminality shown, and there is nothing of which a court can take jurisdiction. And if a court have no jurisdiction, its action is void—a condition which it is the very object of habeas corpus to cure. Voidable informalities or irregularities are not reached by it, but fatal jurisdictional defects are ever within its range, either before or after indictment, and even after conviction and judgment." And the Supreme Court of the United States in (*Greene v. Henkel*, U. S. Marshal, 183 U. S., 249; 22 Sup. Ct., 218; 46 L. Ed., 177), said: "We do not, however, hold that when an indictment charges no offense against the laws of the United States, and the evidence fails to show any, or if it appear that the offense charged was not committed or triable in the district to which the removal is sought, that the court would be justified in ordering the removal, and thus subjecting the defendant to the necessity of making such a defense in the court where the indictment was found. In that case there would be no jurisdiction to commit nor any to order the removal of the prisoner." The rule announced by *Church*, on Habeas Corpus, and by the Supreme Court of California, is fully sustained in *Ex parte Prince* (27 Fla., 196; 9 South, 629; 26 Am. St. Rep., 67); *Ex parte Bailey* (29 Fla., 734; 23 South, 552); *In re Farrel* (36 Mont., 254; 92 Pac., 785); *In re Barker* (56 Vt., 14); *State v. Joyns* (142 Ala., 61; 38 South, 755); *Ex parte Goldman* (Cal. App., 88 Pac., 819); *Ex parte Johnson* (6 Cal. App., 734; 93 Pac., 199); and *Ex parte Rickey* (31 Nev., 82; 100 Pac., 134).

Our statutes define an indictment as "an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense." Section 6674, *Snyder's Compiled Laws Oklahoma*. And an information is defined to be "a written accusation of crime preferred by the district attorney or other public prosecuting officer without the intervention of a grand jury." (22 Cyc., 185). And it would seem that an accusation which in no manner charges a public offense, which accuses one of an act not a crime, can be neither an indictment nor an information. And it is uniformly held that, in the absence of a formal and sufficient accusation, the court acquires no jurisdiction whatever, and, if it assumes jurisdiction, a trial and conviction are a nullity. (22 Cyc., p. 171, and cases there cited.) We think that the foregoing is the law, and that a person in custody under a purported indictment or information which wholly fails to charge a crime may be released therefrom by writ of habeas corpus. But it should be clearly understood that this rule has no application to mere technical defects or omissions or to mere matters of form. It must clearly appear therefrom that the act intended to be charged was not a crime. If from the accusation the court can deduce that the prosecutor intended to charge an act which is a crime, habeas corpus will not lie, however defectively the act is described. Does this information charge a crime? The answer to this question involves a consideration and construction of section 4 of the act approved March 28, 1910 (Sess. Laws 1910, p. 242), and of section 4a of article 3 of the Constitution, being an amendment adopted by the people at the election held on August 2, 1910.

Section 4 of the session law in question reads as follows: "SEC. 4. Any elector shall on presenting himself to vote announce to the clerk of the election his name, and in towns and cities of the first class shall give his street number. Any election inspector, or challenger, may challenge the right of any voter to vote. Any person so challenged shall retire from the inclosure and not be entitled to vote unless he makes an affidavit in writing that he is a qualified and legal voter of the precinct, also his name, residence, occupation, place or

places of residence during the six months prior to the election, with the date of any removal within that time, and the names of two persons who have personal knowledge of his residence in the precinct thirty days; and the county six months and the State one year; and if registered. He shall then be allowed to vote, unless the election inspector or challenger makes affidavit in writing that he knows or is informed and verily believes that the person offering to vote is not a legal voter of the precinct; and the person offering to shall not thereafter be allowed to vote unless one qualified elector of the precinct who has been a freeholder and householder in the precinct for at least one year next preceding such election shall make affidavit in writing that he has personal knowledge of such person offering to vote being a legal voter at the precinct. The affidavit of the person challenged shall be in the following form:

"State of Oklahoma, county of _____, ss: I do solemnly swear (or affirm) (1) I am a male citizen of the United States. (2) I am a native of the United States. (3) I have for more than thirty days last past resided in the precinct in which I am now offering to vote, and that I am now a bona fide resident of this precinct. (4) I have resided for more than six months last past in the county in which I am now offering to vote. (5) I have resided for more than one year last past in the State of Oklahoma. (6) I am over the age of 21 years. (7) I am not deprived of any rights of citizenship by virtue of any conviction of a felony. (8) I am not now kept in a poorhouse or other asylum at public expense. (9) I am not now kept in a public prison. (10) I am not a lunatic. (11) I am not an officer or soldier in the Regular Army, or a marine in the Navy of the United States. (12) I know of no reason why I am not entitled to vote. (13) I am generally known by the name under which I now desire to vote, which is _____. (14) I have not voted and will not vote in any other precinct in this election. (15) My occupation is _____. (16) My residence is _____ (if in city or town, give street and number). (17) During the last six months I have resided at _____. (18) I have removed from _____ to _____ on the following date. (19) That _____ and have personal knowledge of my residence in the precinct thirty days and in the county six months, and the State one year.

"Subscribed and sworn to before me this _____ day of _____, 19____. _____.
 "The inspector shall file such affidavit and safely keep the same until it is delivered as hereinafter provided to the county election board.

"The other affidavits herein referred to shall be in the following form:

"State of Oklahoma, county of _____, ss: I swear that I know, or am informed and believe, that _____, now offering to vote, is not a legal voter in this precinct.

"Subscribed and sworn to before me this _____ day of _____, 19____. _____.

"State of Oklahoma, county of _____, ss: I do solemnly swear (or affirm) that I am a qualified elector of this precinct; that I have been a freeholder and householder in this precinct for one year next preceding this election; that _____, who now desires to vote, has resided in this State for one year immediately preceding this election; that he has resided in this county six months and in this precinct thirty days, at _____; that he is now a bona fide resident of this precinct and a legal voter therein. These facts I know of my own personal knowledge.

"Subscribed and sworn to before me this _____ day of _____, 19____. _____.

"Should the person challenged not be a native of the United States, unless he be of Indian descent, he may strike out the avowal Number '2' in the affidavit to be by him subscribed. If he be of Indian descent he must be a native of the United States to be entitled to vote. Should the person challenged be at the time confined in a poorhouse, or other asylum at public expense, he may still be entitled to subscribe to said affidavit and vote provided he will strike out of avowal Number '8' as arranged herein the word 'not' and add at the close of such avowal with pen and ink the words 'as a soldier of the war of 1861-65 between the States.' Should the person challenged be an officer in the Regular Army or a marine in the Navy of the United States, enlisted from this State, he may strike out the word 'not,' in avowal Number '1,' and add, at the close of the avowal, the words 'but I enlisted from this

State,' and strike out avowal number '18' in case he has not removed as therein provided.

"The foregoing instructions, following the above jurat, shall be printed upon the affidavit in bold type, and immediately following the jurat, with an index band at the beginning of each paragraph. When such affidavits have been signed and sworn to the clerk shall provide the elector with a ballot."

The amendment to the constitution adopted on August 2, 1910, is in the following language: "Sec. 4a. No person shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he be able to read and write any section of the constitution of the State of Oklahoma; but no person who was, on January 1st, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation, and no lineal descendant of such person, shall be denied the right to register and vote because of his inability to so read and write sections of such constitution. Precinct election inspectors having in charge the registration of electors shall enforce the provisions of this section at the time of registration, provided registration be required. Should registration be dispensed with, the provisions of this section shall be enforced by the precinct election officers when electors apply for ballots to vote."

This amendment was recently considered by the supreme court of this State in the case of *Joseph Atwater v. W. T. Hassett et al.*, not yet officially reported (111 Pac., 802), and it was there held that the same was constitutional and valid; and with this conclusion we agree. The questions therefore are (1) whether the amendment is self-executing, and (2) whether the affidavit provided for in section 4 of the act approved March 28, 1910, is the ultimate test of one's qualification to vote under the amendment. We think the amendment is self-executing. It is prohibitive in character, and designates the person or persons who shall enforce the prohibition. The substance of the amendment is that no person with certain exceptions shall be registered as an elector of this State, or be allowed to vote in any election held herein, unless he is able to read and write any section of the State constitution, and precinct election inspectors are commanded to enforce this inhibition at the time of registration, if registration be required, and, if registration be not required, precinct election officers are required to enforce it when electors apply for ballots to vote. It is generally held that constitutional provisions merely prohibitory in character are self-executing, even though legislation with respect thereto may be desirable or beneficial, and that the officer or officers, board, or tribunal before whom the matter may arise should enforce it. (Ex parte McNaught, 23 Okla., 285, 100 Pac., 27; Id., 1 Okla. Cr., 260; 100 Pac., 27; ex parte Cain, 20 Okla., 125, 93 Pac., 974; Id., 1 Okla. Cr., 7, 93 Pac. 975; *Hickman v. Kansas City*, 120 Mo., 116, 25 S. W., 225, 23 L. R. A., 662, 41 Am. St. Rep., 584; *Householder v. Kansas City*, 83 Mo., 495; *Synod of Dakota v. South Dakota*, 2 S. D., 366, 50 N. W., 632, 14 L. R. A., 421; *Washingtonian Home of Chicago v. City of Chicago*, 157 Ill., 414, 41 N. E., 893, 29 L. R. A., 802; *Law v. People*, 87 Ill., 385; *State v. Woodward*, 89 Ind., 110, 46 Am. Rep., 160; *De Turk v. Commonwealth*, 129 Pa., 151, 18 Atl., 757, 5 L. R. A., 853, 15 Am. St. Rep., 705; *American Union Tel. Co. v. Western Union Tel. Co.*, 67 Ala., 26, 42 Am. Rep., 90; *Oakland Paving Co. v. Hilton*, 69 Cal., 483, 11 Pac., 3; *Donahue v. Graham*, 61 Cal., 276; *McDonald v. Patterson*, 54 Cal., 246; *Whitman v. National Bank of Oxford*, 176 U. S., 562, 20 Sup. Ct., 477, 44 L. Ed., 590.) Here the amendment itself provides that the precinct inspectors shall enforce the provision if registration is required, and that the precinct election officers, of whom the inspector is one, shall do so at the time of voting, if registration is not required. All that is necessary for its enforcement is to refuse to register such disqualified person if registration is required, or refuse to deliver him a ballot or to receive a deposit in the ballot box a vote from him where registration is not required. Furthermore, as to registration, section 13, article 8, chapter 31, session laws, 1907-8, provides that, if any citizen's right to registration is challenged, the inspector shall "make such investigation as he deems essential, and decide the question of such person's qualifications as an elector, and should he be of opinion that such person is not a qualified elector, he shall not issue to him a certificate of registration." It will be seen from an examination of the constitutional amendment that, if registration is required, then the provision in question is to be enforced by the precinct election inspector having the registration in charge and at the time of registering the elector. And it is only when registration is dispensed with that it is to be enforced by precinct election officers at the time of the elector's offering to vote.

The legislature of 1907-S passed an act providing for registration in the various cities of the first class in this State. This act was approved May 29, 1908 (art 8, c. 31, Sess. Laws 1907-S, p. 352). Subsequently the legislature of 1909 passed an act known as senate bill No. 179, approved March 27, 1909, amending article 8, chapter 31, Session Laws 1907-S, in regard to registration, and making provision for the registration of all voters in all precincts in the State. (Sess. Laws 1909, p. 258.) This act did not carry the emergency clause, however, and, before the expiration of 90 days after the adjournment of the legislature, the referendum was invoked against it, and, before it was voted upon by the people, it was repealed by chapter 112 of the Session Laws of 1910. The act of 1909 therefore never became a law; also, the legislature of this State passed, without the emergency clause, an act approved March 26, 1910, requiring registration in every precinct of the State, but the referendum was invoked with respect to it also. It was voted upon at the election on November 8, 1910, and was defeated. It therefore never became a law; and consequently article 8, chapter 31, Session Laws 1907-S, has never been repealed, and is in force to this day. Section 2 of said article provides that registration shall begin on the first Monday of July preceding each biennial primary election to be held in August, and shall continue until 9 o'clock p. m. on the last Saturday night of said month of July. Section 27 of said article provides that during the last week of the month of October preceding the general election to be held in November the inspector of election shall open and keep open the registration books for the registration of electors in their respective precincts who shall have become legal voters of such precinct subsequent to the primary election in August, or who will be entitled to vote at the general election in November. This is the only provision for registration of any kind to be had after July. Section 1 of said article 8 provides that no elector shall be allowed to vote in any election held in such cities unless he has been registered. Section 15 of said article provides that a certificate of registration shall entitle the voter named therein to vote, provided it is regular in form as compared with the carbon copy in the hands of the inspector of the election. And section 18 provides that certificates of registration shall entitle electors who rightfully hold same to vote at all elections held after the date of said registration and before the next biennial registration, whether such election be primary or general. But section 4 of the act approved March 28, 1910 (Sess. Laws 1910, p. 242) authorizes the challenge of any voter without regard to whether he was registered, and provides that, when challenged, he may vote only upon making the affidavit or affidavits therein specified. And, construing article 8, chapter 31, Session Laws 1907-S, together with section 4 of the act approved March 28, 1910, it would seem that after the latter act became effective registration provided for in the former act was only *prima facie* and not conclusive evidence of the possession of those qualifications mentioned in the latter act, and that notwithstanding such registration a person might be challenged, and, when properly challenged, should be refused the right to vote, unless he established the qualifications mentioned in the latter act in the manner therein specified.

The constitutional amendment having been voted upon and adopted on August 2, 1910, after the registration in July, and having prescribed an additional qualification and disqualification for voters, and one which previous registration did not and could not determine, it is plain that as to all except persons who were registered in October as provided in section 27, article 8, chapter 31, Session Laws 1907-S, registration was dispensed with in the general election in November as determining a person's educational qualification. That is to say, registration was still required in cities of the first class, but registration made before the adoption of the amendment was no evidence of the possession of the qualification prescribed by the amendment; and, as to this qualification, any voter who was not registered after the adoption of the amendment—that is, in October—stood in the same situation as though he has not registered at all. Those who registered in October, such registration being subsequent to the adoption of the amendment, so far as the educational test is concerned, were entitled to vote under and by virtue of their certificates of registration. But those who did not register after the adoption of the amendment, and who were not on January 1, 1866, or at some time prior thereto, entitled to vote under some form of government, or who did not at that time reside in some foreign nation, or who was not a lineal descendant of such person, so far as the educational test was concerned, were not entitled to vote under and by virtue of their registration in July, and were not entitled to vote at all unless they could read and write any section of the State constitution.

The information in this case does not allege whether A. P. Blakemore had registered as a voter, and, if so, whether such registration was in July or in October. The county court of Tulsa County and this court will take judicial notice that Tulsa is a city of the first class (Ft. Scott v. Elliott, 68 Kan. 805, 74 Pac., 609; City Council of Montgomery v. Wright, 72 Ala. 411, 47 Am. Rep., 422; Goodwin v. Appleton, 22 Me., 453; Woodward v. Chicago & Northwestern R. Co., 21 Wis., 309; Swain v. Comstock, 18 Wis., 463; Union Pac. R. Co. v. Montgomery, 49 Neb., 429, 68 N. W., 619; Hornberger v. State, 47 Neb. 40, 66 N. W., 23; Stratton v. Oregon City, 35 Or., 409, 60 Pac., 905; People v. Wong Wang, 92 Cal., 277, 28 Pac., 270), and under section 6706 of Snyder's Compiled Laws the averment of that fact in the information is not necessary. But, with respect to Blakemore's registration, the averment and proof thereof are material and important; for, if Blakemore did not register in October, then by the terms of the amendment in question its provision was to be enforced as to him by the election officers at the polls. But if he was registered in October, then under the amendment, in the absence of fraud in the registration, we think that established his qualification so far as the educational test was concerned; and if a fraudulent registration was relied upon as a defense the burden would be on the defendant upon a trial under an information of this kind to prove the fraudulent registration. As to this matter, the question whether Blakemore registered in October was raised in the hearing herein, and in answer to a question propounded by the court the county attorney of Tulsa County stated that Blakemore registered in July, and not thereafter, and that the information could not be truthfully amended so as to allege that he had registered since the adoption of the amendment.

We do not think that section 4 of the act approved March 28, 1910, prescribes any test whatsoever of one's qualification to vote under the constitutional amendment. The amendment is a later enactment. The qualification therein prescribed is not included in the voter's affidavit set out in section 4 of the act mentioned, and the affidavit relates only to matters specified therein. The form of the affidavits is statutory, and the statute expressly states what alterations may be made therein and what additions may be made thereto, and all others are thereby excluded. The affidavit shows all matters which may be proved thereby. And when such affidavit has been made, and, if controverted, has been supported by the affidavit of one qualified elector and freeholder, as to the qualifications to which the affidavit relates, the election officers are precluded thereby. The vote may not be a legal one, but the election officers have no power to reject it because of the want of any qualification which the affidavits in their statutory form show the party to possess. Under the statute the making and filing of the prescribed affidavits and not the person's qualification in fact entitles him to vote. This is not true of the constitutional provision. Under that provision it is the fact of the possession of the qualification therein prescribed and not the making and filing of an affidavit thereof which entitles to vote. No person, with certain exceptions, shall be registered as an elector or be allowed to vote in any election unless he be able to read and write any section of the constitution in the language used; not that such person shall not be allowed to vote until he makes affidavit that he can read and write any section of the constitution. And we have no doubt that the people in initiating and adopting this constitutional amendment did not contemplate or intend that the qualifications therein prescribed should be established, and that indisputably and conclusively solely by the affidavits prescribed in section 4 of the act approved March 28, 1910. We think under the constitutional provision the election officers, when it appears that the person offering to vote was not registered in October, and was not on January 1, 1866, or at some time prior thereto, entitled to vote under any form of government, and did not on said date reside in some foreign nation, and is not the lineal descendant of such a person, in the absence of further legislation may lawfully apply to such person any reasonable test as to his ability to read and write a section of the constitution. If the election officers know that such person possesses the requisite qualifications they need not apply any test. If they are satisfied from the person's affidavit that he can read and write any section of the constitution they may act upon that and permit him to vote. If they are not satisfied therefrom they may lawfully apply the ultimate test of requiring such person in their presence to read and write a section of the constitution of not unreasonable length. Beyond this they can not go. And if they apply this test it is their duty in good faith to give the person an opportunity of fulfilling it, and when he has reasonably fulfilled the requirement to permit him to vote.

Such a test itself is not unreasonable. It affords the highest, best, and ultimate proof of the possession or want of the qualification imposed. The elector can not prescribe his own method of proving his possession of this qualification so as to preclude the election officers from denying, disputing, or rejecting his proffered affidavit and applying to him the ultimate test contemplated by the amendment. If he could it would be easy to practically nullify the amendment.

Taking the facts charged in this information as true, it appears that A. P. Blakemore was not himself entitled to vote under any form of government on January 1, 1866, and did not at that time reside in some foreign nation, and was not a lineal descendant of such a person. Therefore, unless he could read and write any section of the constitution, he was not entitled to vote at the election in question. And, since he did not register in October, it was no offense for the election inspector to require that he first demonstrate his ability to read and write a section of the constitution before permitting him to vote. If, after demanding the test, the inspector had refused him reasonable opportunity to fulfill it, or after fulfilling it the inspector had still denied him the right to vote, a different question would be presented; but here the offense is alleged to consist in the fact that the petitioner refused to accept the tendered affidavit as conclusively establishing Blakemore's educational qualification, and refused to allow him to vote only until he should read and write in petitioner's presence a section of the constitution. And, as Blakemore was not registered in October, this was no offense. On the other hand, if he had registered in October, and duly presented his certificate of registration to the election officials when he applied to vote, in the absence of fraud in his registration, of which there is no legal presumption, he would have been entitled to vote; and if, under those circumstances, the petitioner had insisted upon applying to him the test alleged, and refused to permit him to vote until he should fulfill that test, intending under color and pretense of such test to defraud Blakemore of his right to vote, a right which, so far as the educational test was concerned had already been determined at the time and by the person designated by the amendment to determine it, such act would have constituted an offense. The information fails to allege those facts. And, since the county attorney states that he can not truthfully allege them, their omission is not a mere "defect in the charge," for which the court, by section 6208, Snyder's Compiled Laws, is forbidden to discharge on habeas corpus. As these necessary averments are wanting and can not be supplied, the petitioner is entitled to be discharged, and it is so ordered.

FURMAN, P. J., and DOYLE, J., concur.

STATE OF OKLAHOMA, *Oklahoma County*, ss:

I, Mary S. Stotler, notary public, in and for Oklahoma County, State of Oklahoma, do hereby certify that the above and foregoing pages, numbered at the bottom respectively 1 to 12, inclusive, is a full, complete, and correct copy of Exhibit E, introduced in evidence by the contestee in the taking of depositions or evidence before me in the case now pending before the House of Representatives of the Sixty-third Congress of the United States of America, wherein John J. Carney is contestant, and Dick T. Morgan is contestee.

[SEAL.]

MARY S. STOTLER,

Notary Public, Oklahoma County, Okla.

My commission expires September 1, 1914.

CERTIFICATE.

I, Mary S. Stotler, notary public within and for the county of Oklahoma, State of Oklahoma, do hereby certify that W. C. Broady, Ben W. Riley, and Porter H. Morgan, the witnesses whose names are severally subscribed to the foregoing depositions and evidence, were by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the said above-entitled cause; that the depositions and evidence and testimony given by them and respectfully subscribed by them were reduced to writing by me, a disinterested person, in my presence, and subscribed by the respective witnesses in my presence; that the said evidence and testimony and depositions were taken on the 19th day of March, 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day at the office of Morgan & Deupree, 421, 422, and 423 American National Bank Building, in the city of Oklahoma City, Oklahoma County, State of Oklahoma, as specified in the notice to take said evidence and depositions

which is hereto attached; that I reduced to writing the testimony of the said witnesses, together with the questions propounded to them by Porter H. Morgan and Harlan T. Deupree, attorneys for the contestee, and the questions propounded by the Hon. Tyson Dortch, one of the attorneys for the contestant, he being associated in the practice of law with Giddings & Giddings, attorneys of record for said contestant in said cause, together with the objections offered by the said attorneys for the respective parties, and said questions and testimony and objections were reduced to writing in the presence of the said attorneys and were duly attested by the said witnesses, respectively, in the presence of said attorneys and agents; that I am not related to either of the parties in said cause and am not attorney for either of them, and am not interested in the result of said action, financially or otherwise.

[SEAL.]

MARY S. STOTLER,
Notary Public, Oklahoma County, Okla.

My commission expires September 1, 1914.

ADDITIONAL TESTIMONY FOR CONTESTANT.

Now, on this 26th day of February, 1913, the above matter coming on for hearing before L. Babcock, notary public, in and for Canadian County, Okla., the contestant, John J. Carney, appearing by his attorney, M. B. Cope, and the contestee, Dick T. Morgan, appearing by F. E. Gillette, attorney, and Israel Futoransky being first duly sworn to take the testimony and the deposition at this hearing. Sherman Neff being first duly sworn on oath according to law, being called as a witness, testified as follows:

Testimony of SHERMAN NEFF.

Questions by Mr. COPE:

Q. State your name.

(The contestee, Dick T. Morgan, objects to any testimony by this witness, or any witness pursuant to the notice served upon which such a hearing is predicated for the reason and upon the grounds: First, that no sufficient notice of this hearing has been served upon said contestee; second, that the notice under the law and the rules of practice in such case made and provided of a hearing at this time is too late, the same having been served more than 40 days after the response of the contestee to the contestant's petition was filed.)

A. Sherman Neff.

Q. State your place of residence.—A. 606 North Choctaw.

Q. State the city and county and State that you live in.—A. State of Oklahoma, Canadian County, city of El Reno.

Q. Were you a resident of El Reno, in Canadian County, on the 5th day of November, 1912?—A. Yes, sir.

Q. What position, if any, did you occupy on the 5th day of November, 1912, with a relation to the election that was held on that date?—A. I was clerk of the election board of precinct A, second ward.

Q. As such officer were you in attendance upon the board in that precinct on election day?—A. Yes, sir.

Q. As such officer did you have general information as to what the laws of Oklahoma were at that time relative to whom were qualified electors and who were not?—A. Yes, sir.

Q. I will ask you to state if in that precinct any negroes were allowed to cast their ballots on election day.—A. Yes, sir.

Q. As nearly as you can remember, about how many negroes voted in that precinct on election day?

Mr. GILLETTE. We object to the foregoing question and any answer thereto for the reason and upon the ground that there is no specification in the contestant's petition which authorizes general proof of the fact alone that negroes voted. The specification of contest covering only the grounds of illegal votes in Canadian County under the laws of this State.

A. Well, I think about 40; but now I wouldn't say positive as to that.

Q. I will ask you, Mr. Neff, if on that date, before negroes were permitted to vote, if they were tested as to their ability to read and write sections of the constitution, as provided by the laws of Oklahoma?

Mr. GILLETTE. That's objected to as incompetent.

A. I have given all the negro voters, with a very few exceptions, that test, but not on this date; but the negroes who can't make it, as a rule, are shy of coming to the polls. We turned, I think, two down that day that we didn't think could vote intelligently. That's the best of my recollection.

Q. Then, as I understand you, Mr. Neff, the laws of Oklahoma, as they existed at that time, applicable to negro voters, was not enforced in that precinct at the general election of 1912?—A. Well, we think that we enforced the law.

Q. Well, before permitting those negroes to vote, did you require each and every one of them to read and write some section of the Oklahoma constitution?—A. Not on that date, we didn't.

Mr. GILLETTE. The consideration of the foregoing question and answer is objected to for the reason that it is irrelevant and immaterial.

Q. Please state what reason, if any, the election officers in that precinct had for not enforcing the laws of Oklahoma relative to negro voters.

Mr. GILLETTE. The question is objected to because it assumes a fact to exist which has not been shown to exist, in that it assumes that the election board did not discharge its duty.

A. Why, we read of some fellows who had enforced that section of that clause and at that time were in jail, and we had some instructions to keep out of jail, which we carefully carried out.

Q. Then, it was because of the information that you had received as to what the consequences might be in case this particular law was enforced caused you to refrain from enforcing what is known as the "grandfather law"?—A. Well, partly; and then my knowledge of these voters who came there to vote on that day—as I am pretty well acquainted with all of them—and I had put most of them through this test once.

Q. You hadn't put them through this test at this particular election, had you?

Mr. GILLETTE. Objected to upon the ground that such test is not required under the law.

A. No.

Mr. COPE. That's all.

Cross-examination by Mr. GILLETTE:

Q. Do you know of any negro having voted at that election who was not qualified under the law to vote at that time?

Mr. COPE. We object to the question as incompetent and immaterial, for the reason that the witness has already stated that the election test that applied to negro voters by the laws of Oklahoma was not enforced at this particular election.

A. To the best of my knowledge there was not.

Q. To what extent were you informed as to the qualifications of the negroes that were allowed to vote? State fully.

Mr. COPE. We object to the question for the reason that the witness has stated that the election test as applied to negro voters was not enforced in that precinct at the general election of 1912.

Mr. GILLETTE. Counsel for contestee responding to the grounds of the objection urges the incompetency of the objection for the reason that the objection itself is a legal argument upon facts concluded but not shown.

A. Well, I personally did not think that it was necessary to put this test every time that these fellows wanted to vote, as I was acquainted with them and had given it to them once prior to that time—to most of them.

Q. Do you know how a negro voted that day for Congressman?

Mr. COPE. Objected to as incompetent.

A. No, sir; I don't.

Mr. GILLETTE. That's all.

Mr. COPE. That's all.

SHERMAN W. NEFF.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

LUCIUS BABCOCK,

Notary Public.

My commission expires July 17, 1913.

H. D. FORTNER, being duly sworn and called as a witness, testifies as follows:

Questions by Mr. COPE:

Q. State your name.

Mr. GILLETTE. I object to the testimony of this witness upon the ground and for the reasons that no sufficient notice of contest has been given within the time required by the law and the rules of practice to give jurisdiction over such testimony at this time.

A. H. D. Fortner.

Q. Where do you live, Mr. Fortner?—A. 110 West Clark Street, El Reno.

Q. State the city and county and State.—A. City of El Reno, Canadian County, State of Oklahoma.

Q. Did you live in El Reno on the 5th day of November, 1912?—A. Yes, sir.

Q. State what official position, if any, you held on the election board in precinct A of the second ward of the city of El Reno at the general election of 1912?—A. I was inspector.

Q. As such officer did you have a general knowledge of the laws of Oklahoma as they existed at that time?—A. No; because I was no lawyer.

Q. As inspector at that election were you supplied with instructions which you received from the county election board?—A. Yes, sir.

Q. I will ask you to state, Mr. Fortner, as nearly as you can remember, about how many niggers voted in that precinct at the general election of 1912.—A. Well, I'll tell you; my memory wouldn't be very authentic from the simple fact, because I never did know the exact number. I can tell just about the number I thought.

Q. You may state about what your judgment would be?—A. In my judgment, between 50 and 60.

Q. I will ask you to state, Mr. Fortner, if, at that election, the test required of negro voters, under the laws of Oklahoma, were enforced by the election officers in that precinct?—A. No, sir; they were not.

Q. I will ask you to state, Mr. Fortner, why the test required by the laws of Oklahoma on negro voters was not enforced in that precinct at that election?—A. The reason I didn't, I kept reading in the papers of the different squabbles the other inspectors had gotten into and I wasn't going to take any chances where a national question was involved.

Q. Then, so far as you are concerned, it was largely through fear of what the consequences might be to you that caused you to refrain from enforcing the test required by the laws of Oklahoma upon negro voters, was it?—A. Yes, sir.

Q. Do you recall at this time whether or not, prior to the general election of 1912, you received from any Federal official any card or instructions or advice against the enforcement of the test required of negro voters by the laws of Oklahoma?—A. No, sir; I didn't receive any.

Q. As I understand it, Mr. Fortner, the negroes that voted in precinct A of the second ward of the city of El Reno, at the general election of 1912, did so without submitting to the test required of negro voters by the laws of the State of Oklahoma?—A. Yes, sir.

Mr. COPE. That's all.

Questions by Mr. GILLETTE:

Q. That was the general election?—A. Yes, sir.

Q. You may state whether or not any negro vote was challenged at the time he offered to vote at that election?

Mr. COPE. We object to the question for the reason that it is incompetent and immaterial.

A. No, sir.

Q. Do you know of any negro having voted at that election who was not qualified to vote under the laws of this State?

Mr. COPE. We object to the question as incompetent and immaterial, the witness having testified that the test required of negro voters under the laws of Oklahoma, was not enforced in that precinct at that election.

A. No; not being personally acquainted with them. I am not qualified to state whether they were qualified to vote or not.

Q. As inspector of elections, were you in any way hampered or hindered in requiring any test to be applied to any legal voter?—A. Only as I had read in the papers the circumstances in Kingfisher County and in other counties. It was through my own personal protection, as I recall it, that I didn't.

Q. You qualified as an inspector, by taking the oath required of such officer, did you not, before you entered upon the discharge of such duty?

Mr. COPE. Object to the question as incompetent.

A. Yes, sir.

Q. Did any person or persons there that day in any way interfere with your discharging your duty according to the law and your oath?—A. No, sir.

Q. Do you know how any negroes voted that day for Congressman?—A. No, sir; I do not.

Q. In testifying here to-day, do you do so with the understanding that the laws of Oklahoma required any test to be applied to any negro whose right to vote is not challenged?

Mr. COPE. We object to the question as being incompetent and immaterial and calling for a conclusion of the witness.

A. Yes.

Q. Was that your understanding on election day?—A. Yes, sir.

Q. Was that your understanding when you qualified as an election official by taking the oath you did?

Mr. COPE. Object to the question as incompetent and immaterial.

A. Yes, sir.

Q. Now, what test was required as you understand it?

Mr. COPE. We object to the question as incompetent, irrelevant, and immaterial.

A. To be able to read and write a clause of the constitution of the State of Oklahoma.

Q. Do you know that there was a negro voted at that election who could not do this?

Mr. COPE. We object to the question as incompetent and immaterial.

A. No, sir.

Q. That's all.

Redirect examination by Mr. COPE:

Q. Do you know of your own personal knowledge whether any of the negroes that voted in that precinct that day could read and write any section of the constitution of Oklahoma?—A. No, sir.

Mr. COPE. That's all.

H. D. FORTNER.

Subscribed and sworn to before me this 26th day of February, 1913.

[SEAL.]

LUCIUS BABCOCK, *Notary Public*.

My commission expires July 17, 1913.

Comes now the contestant and introduces in evidence the notice to take depositions in this case.

NOTICE TO TAKE DEPOSITIONS.

The said Dick T. Morgan, and Morgan & Deupree, his attorneys of record, will take notice that on Wednesday, February 26, 1913, the said John J. Carney, contestant above named, will take the depositions of sundry witnesses, to be used in evidence in the trial of the above cause, at the office of Lucius Babcock, in the city of El Reno, Okla., before said Lucius Babcock, a notary public, in and for Canadian County, Okla. That the name of the witness whose deposition so will be taken is D. G. Fortner, El Reno, Okla., and such other witnesses as the respective parties hereto may agree to take at said time and place. The said testimony to be taken between the hours of 8 o'clock a. m. and 6 o'clock p. m. of said day, and that the taking of the same will be adjourned and continued from day to day at the same time and place, and between the same hours, until they are completed.

JOHN J. CARNEY, *Contestant*,
By GIDDINGS & GIDDINGS,
His Attorneys.

Service of the above notice is hereby acknowledged this 24th day of February, 1913.

CERTIFICATE OF NOTARY.

STATE OF OKLAHOMA, *Canadian County*, ss:

I, Lucius Babcock, notary public, in and for the county of Canadian, State of Oklahoma, do hereby certify that the above-named, Sherman W. Neff and H. D. Fortner, the witnesses' names severally subscribed to the foregoing deposition, were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, in the case aforesaid, and that the depositions by them respectively subscribed were reduced to writing and subscribed by the respective witnesses in my presence, and the same were taken on the 26th day of February, A. D. 1913, between the hours of 8 o'clock a. m. and 6 o'clock p. m., of said day, and at the office of Lucius Babcock, in the city of El Reno, in the county of Canadian and State of Oklahoma, as specified in the notice thereto attached, and that I am not attorney for either of said parties or otherwise interested in the event of said action.

[SEAL.]

LUCIUS BABCOCK,
Notary Public in and for said County and State.

My commission expires July 17, 1913.

Before Hon. South Trimble, Clerk of the House of Representatives of the United States of America, Washington, D. C.

In the matter of the contest of J. J. Carney, contestant, *v.* Dick T. Morgan, contestee, for a seat in the Sixty-third Congress, from the Second District, State of Oklahoma, and in the matter of the printing of testimony in said case.

Comes now Dick T. Morgan, in his own proper person, and alleges:

First, that there was certain pretended evidence taken in behalf of the contestant herein, J. J. Carney, which was not signed or properly sworn to by the witness or witnesses giving said testimony; and the said Dick T. Morgan objects to the printing of any part or portion of any said pretended testimony that is not duly signed by the witness or witnesses and properly attested under the hand and seal of an officer duly authorized and empowered to take evidence under such cases under the law.

Second, Contestee Morgan alleges that practically all the testimony taken at Oklahoma City, Okla., was taken by shorthand writer and written out in long hand many months thereafter, and if signed by any of the witnesses thereafter, was not signed until months succeeding the time which said testimony was taken, all of which is contrary to the laws and the rules controlling the taking of depositions in the State of Oklahoma, and to the laws of Congress relating to the taking of such testimony, and Contestee Morgan, therefore, objects to the printing of any part or portion of said evidence that was taken by shorthand and not signed by the witnesses at the time and on the date and place where the evidence was taken, and this contestee alleges that all the evidence taken by the officer at Oklahoma City, Okla., in this case was taken by shorthand as aforesaid, except seven pages immediately following page 39 of said evidence.

Third, Contestee Morgan further objects to the printing of any alleged testimony relating to a certain alleged letter and warning circular alleged to have been sent through the United States mails to election officers for the reason that the evidence does not show in any way that the Contestee Morgan, or the Republican congressional committee, or the campaign committee, or anyone in any way connected with said committee, or anyone in behalf of said Contestee Morgan, or with his knowledge had anything to do whatever with the sending of any such alleged letter or circular.

Fourth, this contestee asks that all the evidence taken in his behalf be printed, except the cross-examination of the witnesses who testified in behalf of the Contestee Morgan, and he asks that the said cross-examination be excluded on the ground that said cross-examination was improper.

Fifth, the Contestee Morgan objects to the opening of any alleged testimony that has not been delivered to the clerk by mail or express and has not come to the clerk addressed to the Clerk of the House of Representatives of the United States, Washington, D. C., or that has not been properly indorsed upon the outside envelope with the name of the case in which it is taken, together with the name of the party in whose behalf it was taken, with proper subscription and indorsement thereon, and Contestee Morgan specifically objects to the printing of any testimony and the opening or printing of a package of alleged testimony that is now in the hands of the clerk, addressed to E. J. Giddings, care New Willard Hotel, Washington, D. C., and has indorsed thereon, "From Giddings & Giddings," or words to that effect; and further specifically objects to the printing of alleged testimony of witnesses that appears to have come into the hands of the clerk without being sealed or indorsed.

Respectfully submitted.

DICK T. MORGAN.

The undersigned, attorney for J. J. Carney, acknowledges delivery to him a true and correct copy of the foregoing motion on this the 30th day of June, 1913.

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